Case Law 2023

Key Takeaways

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Introduction

We have selected a handful of the most important contract law cases from across the US, UK and Australia to date, and highlighted practical takeaways for those involved in managing key contractual relationships and regulatory oversight.

UK

Drax Smart Generation Holdco Ltd v Scottish Power Retail Holdings Ltd [2023] EWHC 412 (Comm)

Issue

The warranty claim notice did not comply with the content requirements outlined in the share purchase agreement (the "SPA").

Facts

- The SPA required the buyer to notify the seller of any warranty claim, stating "in reasonable detail the nature of the claim and the amount claimed (including the buyer's calculation of the loss therby alleged to have been suffered)".
- The buyer filed a claim for breach of warranty but the notice of claim cited the losses suffered by the company instead of the reduction in the value of the shares acquired by the buyer.

Key Takeaway

Buyers should ensure they have an alternative recourse under the indemnity in the SPA. Unlike a warranty claim, indemnity claims do not require the buyer to specify an ascertained amount within the time limits imposed by the SPA.

Australia

Laundy Hotels (Quarry) Pty Ltd v Dyco Hotels Pty Ltd as Trustee for the Parras Family Trust & ORS [2023] HCA 6

Issue

Whether complying with a COVID-19 public health order that required a change to regular business processes during the course of a purchase and sale transaction meant that the contract was frustrated.

Facts

- The contract had a clause that obligated the Seller to continue conducting the Business as normal, with respect to its nature, scope and manner, from the date of the contract until completion.
- During that period, a public health order was issued that mandated pubs to "not be open" to the general public, with the exception of takeaway services.
- The purchaser informed the seller of its intent to terminate the contract on the grounds of the Seller's breach. Though, the Court ruled that the Seller had not defaulted on its contractual obligations and was complying with the law.

Key Takeaway

It is crucial for commercial contracts to incorporate provisions that address and clarify the impact of legal changes on the transaction. However, contractual obligations cannot be executed in violation of the law. This case serves as a reminder that contractual obligations will always be subject to the parties obligation to comply with applicable laws, even if this contradicts the terms of the contract. To bring this to the attention of all parties to a contract, we would recommend including a similar statement as a carve out in the contract.

US

Coinbase faces enforcement action by regulators for compliance failures (January 2023)

Issue

A consent order was issued to Coinbase, a crypto exchange platform, by the New York Department of Financial Services for conducting its business in an unsafe manner.

Facts

Coinbase:
- failed to screen new users and conduct enhanced due diligence;
- did not have an effective Transaction Monitoring System; and
- failed to report on suspicious activity.

The New York Department of Financial Services reached a settlement with Coinbase. Coinbase agreed to pay $50 million to the state of New York and a further $50 million to its compliance program.

Key Takeaway

This serves as a reminder to firms operating in the crypto space to implement and maintain robust compliance programs that are designed to work, detect, prevent, and report suspicious activity.

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