

CURRENT AWARENESS BULLETIN

October -December 2008



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INTRODUCTION

This publication is designed to inform users of acquisitions by the library within the stated period, and will appear quarterly until further notice.

Under **TREATISES, DIGESTS, ETC.**, the classification number for the location of the publication on the shelves, is included to the right of the listing.

Under **LEGISLATION**, the abbreviation “G.S.” means - Jamaica Gazette Supplement Bills and Acts.

Judgments are arranged by country, then listed alphabetically by names of parties, followed by the court and date of decision. Abbreviations for the courts are as follows:

P.C. Privy Council
 C.A. Court of Appeal
 S.C. Supreme Court
 R.C. Revenue Court
 F.C. Full Court

Jamaican judgments have been broadly classified to facilitate the user. Headings are indicated in bold letters appearing after the date of decision for each judgment.

Publications of other Caribbean territories are included as and when received.

Comments: As we begin to adapt to the new normal, John Gould asks whether it's time to adopt a new approach to ethics

Specialist: Employment Ian Smith takes a gender at short, precise, but nonetheless important aspects of both common & statutory

Procedure and Practice: Standard of Proof **Adrian Keane** considers jurors should be given a fuller & more accurate direction before returning their verdict.

Inside Court: Law Digest

Profession: Expert Witness- Expert witnesses at a conference with counsel- a practical guide-compiled by Mark Solon.

conversion in the digital age

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JUDGMENTS

Jamaica

ANDERSON'S HAULAGE Services Ltd. v United General Insurance Company Ltd. and Covenant Insurance Company Ltd.

JMSC. 10.10.2008

INSURANCE LAW – Claim for breach of contract in respect of motor vehicle insurance coverage

BARRETT-JOBSON, Gloria v National Commercial Bank and Lanville Henry

JMCA. 25.07.2008

CIVIL PROCEDURE AND PRACTICE– Application to have statement of claim struck out for not having disclosed a reasonable cause of action

BROWN, Carl Barrington v Holiday Inn Jamaica Inc.

JMSC. 07.07.2008

CIVIL PROCEDURE AND PRACTICE– Default judgment entered prior to the introduction of the Civil Procedure Rules

CAMPBELL, MICHAEL Anthony v Duke Mahadeo Campbell (By Susan Mcgann, Guardian and Next Friend)

JMSC. 18.09.2008

CIVIL PROCEDURE AND PRACTICE– Summary judgments

Campbell, Peter v R

JMCA. 16.05.2008

CRIMINAL LAW – RAPE

CARTADE, ROBERT and Jack Koonce and Shirley Shakespeare and Western Cement Company Limited (In receivership) v Pan Caribbean Financial Services Limited and National Investment Bank of Jamaica Limited and Jamaica Redevelopment Foundation Inc.

JMS.C. 15.10.2008

CIVIL PROCEDURE AND PRACTICE – Application to strike out claim as disclosing no cause of action

CHISHOLM, JAMES and Chisholm & Co. Ltd. and Chisholm & Co. Development Ltd. v Minister of Environment and Housing and Government Town Planner and St. Mary Parish Council and The Attorney General of Jamaica

JMCA. 25.07.2008

ADMINISTRATIVE LAW – Appeal from an order refusing appellants' application for judicial review

CLARKE, Stephen v Olga James-Reid

JMCA. 16.05.2008

DAMAGES – Personal injury

COLEY, MAXINE Yolanda v Leslie Carol Coley

JMSC. 16.05.2008

FAMILY LAW – Division of matrimonial property

D.R. HOLDINGS Limited v The Commissioner of Taxpayer Appeals (Income Tax)
JMCA. 31.10.2008

REVENUE LAW – Whether an income generating activity carried on by Taxpayer is to be categorized as a trading or investment activity

EQUIPMENT MAINTENANCE Limited v Section 196 and /or 203 of the Companies Act
JMCA. 16.10.2008

CIVIL PROCEDURE AND PRACTICE – Notice of motion – Application for interpretation of consent order – Principles of contractual interpretation

COMPANY LAW – Separate legal personality – subsidiaries different from parent Companies

FORRESTER, Kevin Leighton v Michele Ann Strong-Forrester
JMCA. 205.2008

FAMILY LAW – children - custody

GAYLE, Glenroy and Jermaine Clarke v R
JMCA. 25.07.2008

CRIMINAL LAW – Application for leave to appeal against convictions and sentences

HAMILTON, Paulette v Gregory Hamilton and Ronham & Associates Ltd. and Jamaica Redevelopment Foundation Inc.
JMCA. 31.07.08

CIVIL PROCEDURE AND PRACTICE – Application against refusal of injunction

KEN'S SALES & MARKETING Limited v Earl Levy & Trident Villas & Hotel limited & Castlewood Corp. Inc. & Dehring Bunting & Golding Limited & Pelican Securities Limited & Beverley Levy & Percy Junor Limited
JMCA. 15.09.08

CIVIL PROCEDURE AND PRACTICE – Application for court to make final provisional attachment order

LAWRENCE, David v Nestle-JMP Jamaica Limited (incorporating Cremo Limited)
JMCA. 31.07.2008

DAMAGES – Negligence – Claim for injuries received at work

LEE, MAVERNIA and Leval Lee and Elvis Lee v Ada Rebecca Smithe and Stanley George Smith
JMCA. 31.07.2008

DAMAGES – Trespass to land

LEVY, EARL and Trident Villas & Hotel Ltd. v Ken Sales & Marketing Ltd.
JMCA. 31.07.2008

LEGAL PROFESSION – Taxation of bill of fees

LYNCH, Stanley v Ruthlyn Mitchell
JMCA. 18.09.2008

CIVIL PROCEDURE AND PRACTICE – Consent judgment

MARCH-BROWN, Bevon v Xavier St. Michael Brown
JMCA. 09.09.2008

FAMILY LAW – Division of matrimonial property

MCDONALD, Christopher v R
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MCNAMEE, Suzette v R
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MERCURIUS, Tarick v R

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CRIMINAL LAW – Appeal against sentence for shooting with intent

NATIONAL COMMERCIAL Bank Jamaica Limited v Olint Corp Limitad

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CIVIL PROCEDURE AND PRACTICE – Application for leave to appeal to Her Majesty in Council

NATIONAL HOUSING Trust and Carol Dorman v Ivor Peynado

JMCA. 21.07.2008

CIVIL PROCEDURE AND PRATICE– Exercise of a right of “set off” by 1st Appellant

NEMBHARD, Lincoln v Wayne Sinclair and Linton Harriot

JMSC. 25.07.2008

TORT – Negligence – Employers’ Liability

NUNES-ASIEDU v Administrator-General for Jamaica (Administrator of the estate of Herman Lawrence Anderson)

JMSC. 30.09.2008

CIVIL PROCEDURE AND PRACTICE– Application for stay of execution

REID, Earl v R

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CRIMINAL LAW – Murder

RICHARDS, Seymour George v Sandra Mae Richards

JMSC.02.09.2008

FAMILY LAW – Children – Custody

RILEY, Maxine v The Board of York Castle High School and The Principal York Castle High School and Ministry of Education and Youth and The Attorney General

JMSC. 22.10.2008

ADMINISTRATIVE LAW – Judicial Review of Ministerial decision under Regulation 30 of the Education Regulations under the Education Act

ROBERTSON, Andrew v Toyojam Limited and Ewen Haughton

JMSC. 16.09.2008

CIVIL PROCEDURE AND PRACTICE – Application to set aside judgment

SALMON, Fitzroy v R

JMCA. 25.07.2008

CRIMINAL LAW – Murder

SENIOR, Marcia v Derrick Rochester and Southern Fruits and Food Processors Limited

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CONTRACT – Agreement to compromise criminal prosecution

STOCKHAUSEN, DONOHUE Montgomery v Valda Willis

JMSC. 16.07.2008

FAMILY LAW – Application to amend previous Consent Order with respect to custody and access of unmarried parent of child

THERMO-PLASTICS (Jamaica) Limited (In receivership) v Refin Trust Limited and TPL Limited
JMSC. 02.10.2008

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JMSC. 12.08.2008

CIVIL PROCEDURE AND PRACTICE– Application to discharge injunction

VICTORIA MUTUAL Building Society v Barbara Berry
JMCA. 31.07.2008

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WHITE, Albert v Office of Disaster Preparedness and Emergency Management and Trescelian Williams and Attorney General of Jamaica
JMSC. 31.07.2009

DAMAGES – Negligence – Motor vehicle collision

WILLIAMS, DELTONIA and Whithorn Development company Limited v M.Z. Holdings Limited
JMSC. 25.07.2008

CIVIL PROCEDURE AND PRATICE – Consent order – Application to set aside

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LEGISLATION

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14/2008	Bills of Exchange (Amendment) Act
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8/2008	President's Emoluments and Conditions of Office (Amendment) Act
7/2008	Supplementary Appropriation (2007/2008) (No. 4) Act
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11/2008	Tourism (Regulation and Standards) (Amendment) Act
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LAW REPORTS

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TREATISES, DIGESTS ETC.

Atkin's Court Forms. 2 nd ed. 2008		
Vol. 13	Costs to Crown proceedings	
Vol. 34	Restrictive covenants	
Digest, The 3 rd reissue 2008		
Vol. 19(1)	Easements	
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Encyclopaedia of Forms and Precedents 5 th ed. 2008		
Vol. 12(1)B	Contracts for services	
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SERIALS

ABA Journal Vol. 94 October 2008

President's message

Lawyers should be involved to ensure that the rule of law prevails at the polls

H. Thomas Wells Jr.

Opening statements

A new credential for eco-conscious lawyers.

Playboy honours the First Amendment.

Northwestern rolls out its two-year law degree.

A legal services agency aerates a model for pro bono delivery *Jill Schachner Chanen*

The National Pulse

Courts and Congress raise new challenges to policy on gays in the military.

Shannon Gilreath

Ethics

More legal ethics changes are on the horizon

James Podgers

Supreme Court Report

An eclectic blend of cases and three-a-day arguments are on tap this term.

David G. Savage

Litigation

The consequences of pushing the rules too far

Jim McElhaney

Business of Law

Manage your money now so you can gloat later.

Make friends to build your career, one author advises.

Diversity managers aren't running from their huge challenges.

Solos find conducting workshops helps raise their professional profile.

Eight technology tips to help the planet, as well as your pocketbook.

Susan A. Berson

Your ABA

ABA groups ponder “real” law rules and applications in virtual environments.
The ABA’s new chief lobbyist in Washington has worked on both sides of the process.

Richard Acello

Obiter Dicta

Equine massage therapist rears up at rules regarding hands-on help for horses.
Naturists look to the courts to defend their right to bare arms (and other bits).

Brian Sullivan

Precedents

Bruno Hauptmann is indicted in the kidnapping and murder of the Lindbergh baby.

George Hodak

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President’s message

Bipartisan commissions can aid in confirming the best judicial nominees.

H. Thomas Wells Jr.

Executive Director’s report

Is the ABD left, right of center? We’re about process, not politics

Henry F. White Jr.

Opening statements

Jeffrey Toobin on the next administration’s high court.
Large firms kiss the four-week paid vacation goodbye.
A handy commemoration of a landmark second amendment decision.
A Minneapolis firm recruits via its Lawyer Job Interview Translator

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The national pulse

The latest DOJ policies curb corporate probes, but critics still press for Congress to act

Supreme Court Report

30 years after ‘7words,’ the court hears fleeting expletives.
Lab reports, informants and immunity key a term packed with criminal law cases.

John Gibeaut

Ethics

U.S. lawyers must manage outsourcing arrangements to avoid ethics concerns.

Eileen Libby

Litigation

Plain language works best to effectively tell the story of your case.

Jim McElhaney

Business of law

Attorneys bilked through phony-check scheme.
Some law pros, firms see the end of the “Cravath model.”
U.S. firms grow the market for wealth planning in Asia
Some solos work full-time jobs on top of their practices.
By phone or PC, instant messaging offers several advantages.
A.D.C. firm takes on disabled vets’ cases – and counsel.

Reginald F. Davis

Your ABA

What the ABA thinks should be the next president’s six top priorities during his first 30 days.

British Tax Review 2008 No. 6

Taxation and the third country dimension of free movement of capital
in EU Law: the ECJ's rulings and unresolved issues *Martha O'Brien*

Tax reform and democratic reform in Hong Kong: what do the people think?
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California Western International Law Journal Vol. 39 No. 1 Fall 2008

Elan, Enron, and the aftermath of scandal:
A comparative analysis of recent Irish and American corporative
governance legislation *Manish Gupta*

Southern exposure: managing sustainable cruise ship tourism in Antarctica
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Due process is a strategic choice: legitimacy and the establishment of an
Article III National Security Court *Kevin E. Lunday*

Cambridge Law Journal November 2008

The changing judicial role: human rights, community law and the
intention of Parliament *Dame Mary Arden*

Civil litigation – what's it for? *J.A. Jolowicz*

Issuer choice in Europe *Luca Enriques & Tobias H. Troger*

Taxonomic property *Brad Sherman*

The drafting of criminal legislation: need it be so impenetrable? *J.R. Spencer*

Damages in tort and under the Human Rights Act: remedial or
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The Financial Services Authority and Money Laundering:
A game of cat and mouse *Nicholas Ryder*

Columbia Journal of Law and Social Problems Vol. 41 No. 4 Summer 2008

Medicaid coverage for race-based drugs *Charleen Hsuan*

Setting their record straight: Granting wrongly branded individuals
relief from Sex Offenders Registration *Shawndra Jones*

To rescue, not return: An international human rights approach to
protecting child economic migrants seeking refuge in the United States
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Can you hear me now? The courts send a stronger signal
regarding arbitration class action waivers in consumer
telecommunications contract *Nina Yadava*

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- The Federal role in reducing hospital-acquired conditions:
are medicare reimbursement incentives enough? *Rachel Deutsch*
- Organizational citizenship through talent management:
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- Retaliatory litigation conduct after *Burlington Northern &
Santa Fe Railway Company v White* *Adan J. Bernstein*
Transparency: a new role for police consent decrees *Noah Kupferberg*

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- Reforming securities litigation reform: restructuring the relationship
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- Detention as targeting: standards of certainty and detention of
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changing work patterns on income tax progressivity *Chris William Sanchirico*
- Market damages, efficient contracting, and the economic waste fallacy
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- The promise and peril of corporate governance indices *Sanjai Bhagat et al.*
- Textualism and jurisdiction *Peter J. Smith*

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- Cultural practices and violence against women *Christiana Fomenky*
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- Is punishment an effective deterrent to illegal drug use? *S. Sriskandarajah*

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- State aid and competition law: An economics perspective *Kevin Harriott*
- Exploring the interface between trade policy and competition law:
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Balancing competing interests in the agricultural sector *Ministry of Agriculture*

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(2) Reforming the Law of Bribery (LCCP No. 185): Bribery outside

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of and problems posed by case management practices, jury selection rules,

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Non-compliance with Case Management Orders and Directions *Roderick L. Denyer*

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Introducing pre-trial witness interviews – a flexible new fixture in the crown prosecutor’s toolkit *Paul Roberts and Candida Saunders*

Post-sentence preventive detention: dangerous and risky *Heather Douglas*

Seddon, Dell and Rock n’ Roll: Investigating alleged breaches of the ban on publishing photographs taken within courts or their precincts, 1925-1967
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The prosecutor’s rock and hard place *David Jeremy Q.C.*

The codification of attempts and the case for “preparation” *Jonathan Rogers*

The Computer Misuse Act 1990: Lessons from its past and predictions for its future
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Environmental Law Review Vol. 10 Issue 3 2008

Planning: A roadblock to renewable energy in the UK
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Governance instruments that protect children’s environmental health: Is enough being done?
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Industrial Law Journal Vol. 37 No. 4 December 2008

Proportionality and employment discrimination in the UK *Aaron Baker*

Mutual trust and confidence: catalysts, constraints and commonality
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Journal of Business Law Issue 8 2008

Two tripartite economic torts *Burton Ong*

Corporate rescue in a world of debt *Vanessa Finch*

When is a majority shareholder an employee: A consideration of Clark v Clark Construction Initiatives Ltd.
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The Financial Ombudsman Service and the Hunt Review: continuing evolution in dispute resolution
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Mediation and planning: the role of mediation in planning and environmental disputes
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Family housing: what is it? *Alex Samuels*

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Get over your (legal) ‘self’: a brief history of lesbians, motherhood and the law *Sarah Beresford*

‘Straight from the horse’s mouth’: an empirical exploration of success in the Irish Credit Union Movement *Richard Thomas et al.*

Legislating gender, (Re) producing rights: an analysis of African case law *Aniekwu Nkolika Ijeoma*

Constructing citizenship: making room for prisoners’ rights *Susan Easton*

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Neither safety nor justice: the UK government response to domestic violence against immigrant women *Sundari Anitha*

Accommodating ‘others’?: housing dispersed, forced migrants in the UK *Peter Dwyer & David Brown*

Stakeholders' views of legal and advice services for people admitted to psychiatric hospital
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Martin Partington: invigorating justice *Sally Wheeler*

Administrative justice – a quiet revolution *Lord Justice Carnwath*

Origins of housing law *Andrew Arden*

Managing vulnerability: homelessness law and the interplay of the social, the political and the technical *Helen Carr & Caroline Hunter*

The idea of proportionality in dispute resolution *Michael Adler*

Administrative justice, discretion and the 'welfare to work' project
The strange death of the liable relative rule *Roy Sainsbury*
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How will you get your firm through today's economic crisis and emerge stronger
ED Flitton

How to survive in a down economy
Which strategies will help law firms make the adjustments necessary to keep on top in tough times?
Ed Flitton & Ed Coultas

Personal profitability in a downturn:

Tips for Protecting Your Practice in Turbulent Seas
Even if you aren't yet feeling the pinch from the economy, start preparing now with a hard look at your numbers – and your best opportunities.
Erik Mazzone

Rethinking Your Marketing Budget
A task approach to budgeting for marketing means defining specific objectives and strategies, making it easier to assign dollar amounts to your activities – and to decide which activities need to be cut
Les Altenberg

10 Tips for Building a Better Clientele
The impact of poor client selection and sloppy client service will be magnified when business begins to slow. Now's the time to shape up your client base.
Dan Pinnington

Is Office Rent Killing Your Bottom Line?
Tips for Negotiating a Better Lease
Commercial rents, operating expenses and even parking costs are spiraling higher. Here's advice on how to maximize your leverage with your landlord.
Luke Raimondo

Making the Move to alternative Billing
In a tough economy, clients want second advice and help to get through the difficult times. But just as important, they are looking for value for their dollar spent.
Mark A. Robertson

Law Practice Vol. 34 No. 7 October/November 2008**The Evolving Role of Today's Law Firm Leaders**

Dramatic and fast-moving changes in the legal profession have created tremendous pressures for law firm leaders – and most aren't keeping pace.

John Remsen, Jr.

Leading Through the Economic Storm

Essential advice on steps to take to keep your firm strong and steady – and prepare to grab new opportunities – despite the turmoil all around.

John S. Smock

How to Work the Unwritten Rules and Lead Change

This preview excerpt from the ABA Law Practice Management Section's upcoming book on law firm governance points to critical steps you can take to move past a lawyer-focused culture to a firm-first culture.

Arthur G. Greene

Leading by Reading the Room

Strategic empathy is one of the key attributes Lauren Stiller Rikleen relies on as a leader in her practice and as a groundbreaking advocate for women lawyers

Steven T. Taylor

Uncovering Leadership Opportunities for Women Lawyers

Women lawyers contribute many nonbillable hours to their firms – but not all of their efforts are wisely chosen.

Kathleen B. Patton

Leading With an Open Mind

During her term as the first female chair of Holland & Hart's Management Committee, Anne Castle learned the value of listening, learning and mediating.

Steven T. Taylor

Law Quarterly Review**Vol. 124****October 2008**

The Golden Victory – Some reflections

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The Feudal System and the Land Registration Acts

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The "drastic" remedy of rectification for unilateral mistake

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The economic torts in the 21st century

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Pleading for provoked killers: in defence of *Morgan Smith*

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Review of regulation

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Firm breaks new ground by sending PI work to South Africa

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Telephone service for suspects may erode human rights:
New advice for detainees branded 'illegal' in report

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Legal Complaints Service to pass responsibility for any scheme to its successor:
Online complaints plan on hold

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Serious Fraud Office: director outlines plans to act before cases reach court	<i>James Dean</i>

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Regulation: 'There are no "no-go" area' – Lord Hunt	<i>Paul Rogerson</i>
Judge intervenes as VHCC barristers' row rocks trial	<i>Catherine Baksi</i>
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Ditch 'straitjacket' of judiciary, says DPP	<i>Catherine Baksi</i>
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Referral rule breaches widespread	<i>Neil Rose</i>
Solicitor poised to sue broker as Society takes action	<i>James Dean</i>
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Should doctors who make clinical errors be charged with manslaughter?
A survey of medical professionals and members of the public *N. Kay et al.*

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Euthanasia and physician-assisted suicide in cases of terminal cancer:
the opinions of physicians and nurses in Greece *E. Parpa et al.*

New Law Journal **Vol. 158 No. 7335** **September 5, 2008**

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A genuine Bill of Rights is a distant prospect, says *Geoffrey Bindman*

Employment: *Jeremy Nixon* reviews the laws in relation to mitigation of loss

Family: Jurisdiction and the balance of fairness. *David Barry* discusses the
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Personal injury: *Brent McDonald* discusses recent case involving negligence and
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Property: What happens when rights of way go wrong? *James Naylor* reports

Public: Should the Crown's powers be limited to prerogative and statute? *Laura West*
and *Jonathan Manning* reports

Discrimination: How has *Malcolm* redefined the test for disability related discrimination?
Spencer Keen reports

Taxing matters: *Peter Vaines* turns the spotlight on trading losses, unlawful dividends ...
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New Law Journal **Vol. 158 No. 7336** **September 12, 2008**

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The government is proposing a mixed bag of constitutional reform, says *Roger Smith*

Employment: Does *Coleman* offer carers a free standing right to flexible working
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Family: When can (or will) Jersey courts enforce English orders? By *David Barry*

Personal injury: How is *Thompsonstone* impacting on periodical payments orders: ask
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Property: *Adam Rosenthal* and *Nat Duckworth* unravel the implications of a recent
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Public/Community care: *Ed Mitchell and Clive Lewis QC* examine the precarious relationship between social care and HRA 1998

New Law Journal **Vol. 158 No. 7337** **September 19, 2008**

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Living in the public eye is an inevitable consequence of fame, says *Michael Nash*

Employment: *Ian Smith* dissects the latest cases on dismissal law and TUPE transfers

Family: *David Burrows* considers the fairness of delayed lump sum payments when recession hits

Personal injury: Settling damages for latex allergies may involve a trip to court in future, says *David Cartwright*

Property/ Landlord & tenant: Does *Malcolm* set the bar too high in disability discrimination disputes? Ask *Adam Rosenthal* and *Nat Duckworth*

Public: Who pays – health or social services? Asks *Nicholas Dobson*

New Law Journal **Vol. 158 No. 7338** **September 26, 2008**

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Urgent action is needed to stem the crisis in mental health law, says *Jon Robins*

Employment: What next for *Cardiff Women's Aid*? *Chris Milsom* reports

Family/ Child law: *Dorothea Gartland* considers the impact of the Adoption and Children Act 2002 on placement orders

Personal injury/ Public: *Nicholas Dobson* wonders how far prospective defendants need to go in taking steps to avoid mishap?

Property: LTA 1954 is in dire need of statutory intervention says *Malcolm Dowden*

Public/ Human rights: Susan Nash discusses cases involving expulsion, education and adoption

Wills & probate: *Paul Hewitt* and *Paola Fudakowska* reports on beneficial ownership

New Law Journal **Vol. 158 No. 7339** **October 3, 2008**

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Jonathan Davies and *Richard Burger* discuss the moves towards more financial regulation

Employment: Should workers be paid to sleep? *David Regan* reports

Family: *Dorothea Gartland* discusses the difficulties of obtaining parental responsibility orders prior to adoption

Personal injury/ Public: *Christopher Russell* unravels recent cases involving limitation and loss of chance

Property: *Anthony Judge* discusses tenants' repair costs in the light of *Watson v Jackson*

Public: *Azeem Suterwalla* and *Caoilfhionn Gallagher* brace the issue of "Kara" discrimination in schools

New Law Journal **Vol. 158 No. 7340** **October 10, 2008**

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Roger Smith is bemused by the government's inability to do basic maths

Family: What right do women have to conceal their pregnancy from the father-to-be? *Julie O'Malley* explores the issues

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Family: *David Burrows* considers issues of "magnetic importance"

Personal injury: *Richard Scorer* examines cases of death in action

Property: *Greville Healey & Philip Sissons* consider the future for proprietary estoppel in commercial cases

Public: Legitimate expectations revisited by *Charles Brasted & Julia Marlow*

Wills & Probate: *Paul Hewitt, Paola Fudakowska & Adam Cloherty* discuss recent cases from the courts

New Law Journal **Vol. 158 No. 7342** **October 24, 2008**

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Family: Adhering to good practice can reduce hostility in family law proceedings, says *Lorraine Jones*

Personal injury: *Elliot Gold* and *Jonathan Dixey* revisit the meaning of work equipment

Property: *Michael Walsh* advises on how to avoid s21 delays

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Andrew Fulton looks how the right pairing can serve aces for clients

Employment: New flexible working arrangements will produce more litigation and uncertainty, says *Juliet Carp*

Family: *Geraldine Morris* looks at the implications of the Civil Partnership Act 2004

Personal injury: *Peter Taylor* delves into why cases involving asbestos are now such a hot topic

Property: *Willie Manners & Jonathan Pratt* analyse the intricacies of rent payment

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Helen Gill questions why the Equality Act exempts faith schools from its provisions

Personal injury: Part one: an update on a recent case in the law of psychiatric injury by *Rehana Azib*

Property: Attention to detail can prevent a bruised ego, says *Rachel Watkin*

Mental health: *B. Mahendra* explores issues of responsibility, risk and capacity

Freedom of information: *Bill Gilliam & Sian Spencer* explore the murky depths of personal data

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Democracy and human rights are bedding down well, says *Roger Smith*

Employment: Absurd circumstances are a daily occurrence at the coalface of employment law, says *Ian Smith*

Personal injury: Part two – damages after physical and psychiatric injury, by *Rehana Azib*

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Public/Community care: *Ed Mitchell & Clive Lewis QC* on care home closures and the plight of vulnerable adults

New Law Journal Vol. 158 No. 7346 November 21, 2008

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Desmond Browne QC exposes holes in the Daily Mail editor's recent privacy tirade

Employment: Prohibiting clothing with a religious significance can be risky, says *Charles Pigott*

Family/child law: *Jonathan Herring* discusses enforcing negotiated agreements

Personal injury: Part one – *Nicholas Bevan* explains why the Motor Insurers Bureau is ripe for reform

Property: *Stuart Johnston & Simon Rutman* offer some practical advice relating to plans and boundaries

Property: has *Yeoman* narrowed the scope for a successful claim of proprietary estoppel? *Kate Chambers* reports

HIPs: Solicitors are making more demands on HIP providers... and rightly so says *Tony Dutton*

Public: *Kenneth Warner* examines public bodies and the common law duty of care

New Law Journal **Vol. 158 No. 7347** **November 28, 2008**

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Peter Vaines reports on a Budget with a difference

Employment: Stress in the workplace is a fertile source of litigation, says *Michael Salter & Chris Bryden*

Family: Divorce, bankruptcy...and the credit crunch. A painful combination, says *Michael Wilkinson*

Personal injury: *Richard Scorer* says a fine balance is required for awarding damages to victims of serious injury

Property: Does “abnormal” rent review spell trouble for tenants in turmoil? Asks *Ben Trust*

Public/Environment: An overview of recent developments in environmental law, by *Stephen Hockman QC*

Wills & probate: special focus

Paul Hewitt & Paola Fudakowska discuss recent cases

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Part one: How rare are exceptions to the no reflective loss principle? Ask *Victor Joffe QC* and *James Mather*

New Law Journal **Vol. 158 No. 7348** **December 5, 2008**

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Staff cuts and budgetary constraints could undermine LSC attempts to reinvent itself says *Jon Robins*

Employment: *Karl Deakin* reflects on another difficult year for interpreting the Working Time Regulations

Family: Cohabitants still struggle to get a fair deal when their relationships break down, says *Lorraine Jones*

Personal injury: *Ogden 6* – are they making a difference in assessing PI claims? Asks *Joe McManus*

Property: How will the commitment to carbon reduction affect the landlord and tenant relationship? *Malcolm Dowden* reports

Public/Human rights: Debbie Purdy's case endorses the courts' belief in the need for flexibility, says *Seamus Burns*

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Roger Smith reflects on the chill factors affecting access to justice, civil liberties and human rights

Family: Will the credit crunch tempt more litigants to adopt a *McKenzie* friend? Ask *Ann Northover & Nicola Fisher*

Personal injury: *Elizabeth Wale* reports on high-risk sports and contributory negligence

Property: What happens when surveyors are hoodwinked into valuing the wrong property? *Evelyn Reid* reports

Public: injunction or ASBO? A council's dilemma, by *Nicholas Dobson*

Wills & Probate: Where there's a will, a quarrel's on the way, says *Michael Tringham*

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Justness! Speed! Inexpense! An introduction to *The Revolution of 1938 Revisited: The role and function of the Federal Rules* *Steven S. Gensler*

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Planners and conveyancers should follow a stricter procedure, says *Douglas Raine*

No limits

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The *Westacre* case provides greater clarity on the limitation period relating to the enforcement of third-party debt orders, says *Polly Handford*

Left out in the cold

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The government-approved tenancy deposit schemes should provide a successful dispute resolution mechanism, but solicitors should be involved in the on-going consultation over its actual effectiveness, says *Debra Wilson*

Calling it quits

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Establishing the 'cause' and getting the timing correct are crucial elements in constructive dismissal claims, says *Gordon Peilow*

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Culture of change

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The CJC's recommendations for collective actions are to be welcomed says *David Greene*

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Surviving the liquidity crisis is all about financial acumen and firms continuing to provide quality advice. *Jean-Yves Gilg* reports

Force their hands

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The Forced Marriage Act is a much-needed step in the right direction, says *Cris McCurley*

Demanding times

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As the credit crunch bites harder, and recession looms large, what can we expect the insolvency landscape to look like over the next six months? Asks *Kathryn Tait*

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Lowering the age of criminal responsibility can reduce young people's opportunities, argues *Lucy Corrin*

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Rebecca Cattermole reviews the latest homelessness appeals, plus cases on right to buy

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Philip Harris sheds light on the Construction Contracts Bill

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Rewrite, revise, redraft

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The regulation of consumer credit has descended into chaos, leaving borrowers subject to information overload and lenders prey to red tape, says *Richard Mawrey QC*

What lies beneath?

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Claims of dishonest conduct against lawyers are rising, and in the absence of a clear test, law firms should set out a careful risk management plan, say *Fergal Cathie* and *Gaby Kaiser*

Prevention and cure

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Family courts have a wide choice of instruments to prevent child abduction but without further policy reforms these will not always afford sufficient protection, says *Amendeeep Gill*

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Poor, in debt and no lawyer

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The judicial system is letting poor families down by failing to prevent prosecution of those unable to meet civil debts, says *Joanna Kennedy*

The traveller's saviour

CPD: commercial

The courts have sensibly construed section 75 of the Consumer Credit Act, allowing consumers to claim against credit card issuers for cancelled flights, says *Daniel M Collins*

Branded a criminal

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Entering the US can be an ordeal, particularly for those who have found themselves on the wrong side of the law, says *Steven Heller*

Testaments sans frontiers

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Where preparation of a will raises cross-border issues, practitioners must dig deep to deal with the jurisdictional factors, says *Richard Frimston*

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All things being equal

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No silent agreements

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Virtual words, real consequences

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Social networking sites have lured users into a false sense of confidentiality, but personal details held on these sites can be accessed and used by employers against employees – how far can this go, asks *Sarah Crowther*

Another brick in the wall

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Disputes over work to party walls are on the rise, but recent judgments have helped to clarify several provisions of the Party Wall Act, says *Stephen Bickford-Smith*

No remedies for cartel victims

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Some will regard the ruling that cartel victims do not have a claim for restitutionary damages as a backward step but *Tony Singla* says this is the correct approach

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Jenny Howe considers the planned simplification of consumer legislation

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How human rights help ordinary people with access to justice

Regulatory nightmares

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A recent decision of the Solicitors Disciplinary Tribunal holds many lessons for solicitors, explains *Tony Guise*

Your home as raffle prize

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Raffles could be an innovative way of selling property in a depressed market but owners risk falling foul of gambling laws, says *Richard Lawson*

New perspectives on the Mental Health Act

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To understand new mental health legislation solicitors will need to know what is being done with suspected terrorists, says *David Hewitt*

Shortchanged or overcharged

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Philip de Berry on how the courts should treat the much ignored costs provisions of Part 45 of the CPR, particularly in road traffic accidents

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The new Adoption and Children Act 2006 includes powerful provisions relation to work schemes, but will these work in practice, asks *D.J. Edwina Millward*

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Two recent libel pay-outs to individuals regarded as role models illustrate the danger of libel being exposed to ridicule and contempt, says *Rod Dadak*

David Edmonds interview

David Edmonds on independent regulation, competition and the arrival of the consumer-citizen to the legal services market. *Jean-Yves Gilg* reports

Constructive thinking

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Mark Pawlowski asks whether there is scope for giving effect to informal land agreements by applying constructive trust doctrine

Everything's gone green

CPD: property

With more environmental regulation in the pipeline, landlords and tenants need to start thinking about their needs and obligations in advance of the likely emergence of 'green leases', says *Sue Boyall*

Practice trends: housing law

CPD: property

The proposed new legal aid contracts to start in 2010 will involve big decisions in the coming year, say *Giles Peaker* and *Justin Bates*

Civil litigation brief

CPD: litigation

Gordon Exall highlights the problems that remain in making applications in relation to extend time for service of the claim form

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Smart law firms are thinking of when the economy picks up, says *Jonathan Benjamin*

Battle for Bleak House

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The case of *Couwenbergh v Valkova* is the only civil case to negotiate the new CPR52 r17 procedure and make a successful second civil appeal, reports *Henry Webb*

Fixed costs: a minor issue

CPD: private client

The CPR definition of a road traffic accident is so wide that access to justice, particularly in cases involving minors, is suffering, say *Alison Neate* and *Julie Cooper*

Neatest but not dearest

CPD: private client

Amendments to the Mental Health Act provide for the removal of a patient's nearest relative, says *David Hewitt*

Locked out of a solution?

CPD: commercial

How can local authorities address the conflict between the established practice of entering into exclusivity agreements with contractors, and the new procurement rules requiring openness, asks *Laura Clarke*

European briefing

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The Rome II regulation will come into force in January next year, but will it actually apply from that date, asks *Paul Stanley*

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Paying your dues

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The House of Lords decision in *Raguz* may be common sense, but certain procedural problems for practitioners remain unresolved, say *Teresa Edmund* and *Tim Allen*

Employment and the internet

CPD: miscellaneous

Misuse of technology by employees can land employers in hot water, and the range of defences available are limited, says *Sarah Crowther*

A fertile subject

CPD: private client

The Human Fertilisation and Embryology Act 2008 has opened up new definitions of parenthood potentially affecting the work of all private client practitioners, from will writers to tax planners and divorce lawyers, says *Natalie Gamble*

All in the name of honour

CPD: crime

The link between forced marriage and honour-based violence is very real and should be taken much more seriously by the authorities, says *Chris McCurley*

Regional focus: South Coast

Firms on the South Coast are working hard on their unique specialisms to beat the downturn but they are also planning their next move and already thinking of their post-recession strategies. *Jean-Yves Gilg* reports

Life in crime

David Rhodes believes that the government's move to force community penalty offenders to wear high-visibility jackets is just a diversionary tactic

Update: planning

Gregory Jones and *Sarah Sackman* review the latest planning case involving commencement of development, and changes brought in by the Planning Act 2008

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With inconsistent drafting, the courts will look at language used in various parts of a contract to save it from rescission, says *James Naylor*

Honest, guv

CPD: miscellaneous

A recent decision of the SDT shows how thorough preparation is the key to surviving an SRA investigation, says *Tony Guise*

A drink at the last chance saloon

CPD: commercial

In clarifying liability for sales of alcohol to under 18, the Licensing Act 2003 places particular responsibility on owners of alcohol, say *Simon Walsh* and *Elliot Gold*

Don't bank on a bonus

CPD: commercial

Lawyers should prepare for a hard-fought battle over bonuses for sacked investment bank employees, says *Jonathan Evans*

A tussle with technology

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Digicel emphasizes the need for practitioners to get to grips with technology in disclosure, say *Ed Sautter* and *Alex Dunstan-Lee*

View from the bench

Lack of clarity in the new civil procedure rules raises questions over how to commence property and land ownership proceedings, says *Peter Glover*

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Ian Harris and Christopher Gutteridge comment on recent changes to the sentencing of dangerous offenders and a recent case concerning the defence of 'panic'

Update: professional negligence

Spike Chartwood and Alice Nash review cases on dishonesty, limitation and witness immunity, and consider how the principles of 'loss of a chance' claims apply to negotiations

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