



OVERSEAS DECISIONS BULLETIN

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Decisions of the Supreme Court of the United Kingdom, the Supreme Court of Canada, the Supreme Court of the United States, the Constitutional Court of South Africa, the Supreme Court of New Zealand and the Hong Kong Court of Final Appeal. Admiralty, arbitration and constitutional decisions of the Court of Appeal of Singapore.

Administrative Law

Army Corps of Engineers v Hawkes Co Inc
Supreme Court of the United States: [Docket No 15-290](#).

Judgment delivered: 31 May 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Administration law – ‘Water of the United States – Where under the *Clean Water Act*, Unites States Army Corps of Engineers can issue a ‘jurisdictional determination’ as to whether property contains ‘waters of the United States’ - Review under the *Administrative Procedure Act* – Whether ‘jurisdictional determination’ is a ‘final agency action for which there is no other adequate remedy in court – Whether ‘jurisdictional determination’ is judicially reviewable under the *Administrative Procedure Act*.

Held (8:0): Affirmed.

Kingdomware Technologies, Inc v United States
Supreme Court of the United States: [Docket No 14-916](#).

Judgment delivered: 16 June 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Administration law – Merits review – *Veterans Benefits, Health Care, and Information Technology Act* – Where Act requires Secretary of Veterans Affairs to set annual goals for contracting with service-disabled and other veteran-owned small businesses – Where Act contains, separate set aside provision known as the ‘Rule of Two’ – Requirement for Department to use the ‘Rule of Two’.

Held (8:0): Reversed and remanded.

Confidentiality

PJS v News Group Newspapers Ltd

Supreme Court of the United Kingdom: [\[2016\] UKSC 26](#)

Judgment delivered: 19 May 2016

Coram: Lord Neuberger of Abbotsbury PSC, Baroness Hale of Richmond DPSC, Lord Mance, Lord Reed, Lord Toulson JJSC

Catchwords:

Confidential information — Breach of confidence — Injunction — Claimant granted interim injunction restraining defendant from publishing story in England and Wales concerning claimant’s extra-marital sexual activities — Foreign and Scottish newspapers publishing story identifying claimant — Story also available on internet and social media websites — Defendant applying for injunction to be lifted on grounds that story now in public domain — Whether publication in public interest — Whether Convention right to freedom of expression taking precedence once is story in public domain — Whether further publication by English media interfering with right to privacy — Human Rights Act 1998 (c 42), s 12, Sch 1, Pt 1 arts 8, 10.

Held (4:1): Appeal allowed.

Conflict of Laws

Iraqi Civilians v Ministry of Defence (No 2)

Supreme Court of the United Kingdom: [\[2016\] UKSC 25](#)

Judgment delivered: 12 May 2016

Coram: Lord Neuberger of Abbotsbury PSC, Baroness Hale of Richmond DPSC, Lord Mance, Lord Sumption, Lord Reed JJSC

Catchwords:

Conflict of laws — Limitation of action — Whether foreign limitation period applying — Claims brought by Iraqi civilians in England in respect of events occurring in Iraq — Provision of Iraqi law barring bringing of claims in Iraq — Provision constituting “impediment” rendering it impossible for rights to be claimed in Iraq — Whether suspending time limit imposed by Iraqi limitation law — Whether claims time-barred — Foreign Limitation Periods Act 1984 (c 16), ss 1, 4(1)

Held (5:0): Appeal dismissed.

Constitutional Law

Betterman v Montana

Supreme Court of the United States: [Docket No 14-1457](#).

Judgment delivered: 19 May 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Constitutional law – Sixth Amendment – Speedy trial guarantee – Where defendant has pleaded guilty – Where defendant was jailed for 14 months awaiting sentencing – Whether presentencing delay violates the Sixth Amendment’s guarantee of a speedy trial.

Held (8:0): Affirmed.

Williams v Pennsylvania

Supreme Court of the United States: [Docket No 15-5040](#).

Judgment delivered: 9 June 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Constitutional law – Fourteenth amendment – Due Process Clause – Where petitioner was convicted of murder – When the then-district attorney of Philadelphia, Ronald Castille, approved the trial prosecutor’s request to seek the death penalty - Where petitioner received relief under the *Post Conviction Relief Act* – Where prosecutor had committed *Brady v Maryland* violations – Where the Commonwealth asked the Supreme Court to vacate the stay of execution – Where Chief Justice was former Attorney

General, Ronald Castille – Where petitioner filed request for Chief Justice to recuse himself – Where Chief Justice did not recuse himself – Where Chief Justice joined Supreme Court’s decision in removing the stay on execution.

Held (5:3): Vacated and remanded.

Canada (Attorney General) v Chamber des notaires du Quebec
Supreme Court of Canada: [2016 SCC 20](#)

Judgment delivered: 3 June 2016

Coram: McLachlin CJ and Abella, Cromwell, Moldaver, Karakatsanis, Wagner and Gascon JJ.

Catchwords:

Constitutional law — Charter of rights — Search and seizure — Professional secrecy of notaries and lawyers — Income tax — Tax audit and collection — Whether ss. 231.2(1) and 231.7 and definition of “solicitor-client privilege” set out in s. 232(1) of Income Tax Act infringe right guaranteed by s. 8 of Canadian Charter of Rights and Freedoms insofar as they apply to lawyer or notary — If so, whether that impairment can be justified under s. 1 of Charter — Income Tax Act, R.S.C. 1985, c. 1 (5th Supp .), ss. 231.2(1) , 231.7 , 232(1) “solicitor-client privilege”.

Taxation — Income tax — Enforcement — Professional secrecy of notaries and lawyers — Statutory provision requiring provision of documents or information for audit or enforcement purposes — Constitutional validity of requirement scheme with respect to notaries and lawyers and of exception for accounting records of lawyer provided for in definition of “solicitor-client privilege” set out in Act — Income Tax Act, R.S.C. 1985, c. 1 (5th Supp .), ss. 231.2(1) , 231.7 , 232(1) “solicitor-client privilege”.

Held (7:0): Appeal dismissed.

United States v Bryant
Supreme Court of the United States: [Docket No 15-420](#)

Judgment delivered: 13 June 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Constitutional law – Sixth Amendment – Right to counsel – Where Sixth Amendment guarantees indigent offenders appointed counsel in any state

or federal criminal proceedings in which a term of imprisonment is imposed – Where Congress enacted a felony offence of domestic assault in Indian country by a habitual offender, 18 U.S.C. §117(a) – Where §117(a)'s includes convictions by a tribal court – Where tribal court does not have identical protections for defendant as those under the Constitution – Where tribal court provides indigent defendant with a right to appointed counsel only for sentences exceeding one year – Whether the inclusion of tribal-court convictions violates the Constitution.

Held (8:0): Reversed and remanded.

Rogers Communications Inc v Châteauguay (City)

Supreme Court of Canada: [2016 SCC 23](#)

Judgment delivered: 16 June 2016

Coram: McLachlin CJ and Abella, Cromwell, Moldaver, Karakatsanis, Wagner, Gascon, Côté and Brown JJ.

Catchwords:

Constitutional law — Division of powers — Radiocommunication — Pith and substance doctrine — Double aspect doctrine — Notice of establishment of reserve served by city to prevent construction of radiocommunication antenna system on its territory — Whether notice of reserve is ultra vires city on basis that it relates in pith and substance to exclusive federal power — Radiocommunication Act, R.S.C. 1985, c. R-2, s. 5(1) (f) — Constitution Act, 1867, ss. 91(29) , 92(10) (a), (13) , (16) .

Constitutional law — Division of powers — Radiocommunication — Interjurisdictional immunity — Notice of establishment of reserve served by city to prevent construction of radiocommunication antenna system on its territory — Whether notice of reserve inapplicable by reason of doctrine of interjurisdictional immunity — Radiocommunication Act, R.S.C. 1985, c. R-2, s. 5(1) (f) — Constitution Act, 1867, ss. 91(29) , 92(10) (a), (13) , (16) .

Held (9:0): Appeal allowed.

Fisher v University of Texas

Supreme Court of the United States: [Docket No 14-981](#).

Judgment delivered: 23 June 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito and Sotomayor JJ.

Catchwords:

Constitutional law – Fourteenth Amendment – Equal Protection Clause – University admission policy – Whether race-conscious admissions program is lawful under the Equal Protection Clause.

Held (4:3): Affirmed.

Birchfield v North Dakota

Supreme Court of the United States: [Docket No 14-1468](#).

Judgment delivered: 23 June 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Constitutional law – Fourth Amendment – Drink driving – Where State law requires person to submit to a breath test – Where State law requires person to submit to a blood test – Whether motorist may be criminally punished for refusing to submit to a blood test.

Held (7:1): Reversed and remanded

Gauteng v Lushaba

Constitutional Court of South Africa: [\[2016\] ZACC 16](#).

Judgment delivered: 23 June 2016

Coram: Mogoeng CJ, Moseneke DCJ, Bosielo AJ, Cameron J, Froneman J, Jafta J, Khampepe J, Madlanga J, Mhlantla J, Nkabinde J and Zondo J

Catchwords:

Constitution — Section 165 — Judicial authority vested in courts — Whether one can be a judge in their own matter — Whether Court competent to authorise party to litigation before it to exercise judicial authority.

Constitution — Section 34 — right to fair hearing — Whether one should be condemned without a hearing.

Held (11:0): Appeal allowed in part.

R v Saeed

Supreme Court of Canada: [2016 SCC 24](#)

Judgment delivered: 23 June 2016

Coram: McLachlin CJ and Abella, Cromwell, Moldaver, Karakatsanis, Wagner, Gascon, Côté and Brown JJ.

Catchwords:

Constitutional law — Charter of Rights — Search and seizure — Search incident to arrest — Accused arrested in connection with sexual assault — Police have reasonable grounds to believe complainant's DNA is present on accused's penis — Police seek penile swab from accused — Accused complies in privacy of police cell — Police do not attempt to obtain warrant — Complainant's DNA detected on swab and introduced as evidence at trial — Whether common law power of search incident to arrest authorizes penile swabs — Whether swab was unreasonable and contrary to accused's right to be secure against unreasonable search or seizure — If so, whether evidence discovered in search should be excluded — Canadian Charter of Rights and Freedoms, ss. 8 , 24(2).

Held (8:1): Appeal dismissed.

Whole of Woman's Health v Hellerstedt

Supreme Court of the United States: [Docket No 15-274](#).

Judgment delivered: 27 June 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Constitutional law – Fourteenth Amendment – Abortion – Application of *Roe v Wade*, 410 U.S. 113 – Where 'State has a legitimate interest in seeing to it that abortion ... is performed under circumstances that insure maximum safety for the patient' – Where the Texas Legislature enacted House Bill 2 (H. B. 2) – Where House Bill 2 contained provisions regarding 'admitting privileges' – Whether provisions were related to a legitimate state interest.

Held (5:3): Reversed and remanded.

R v Vassell

Supreme Court of Canada: [2016 SCC 26](#)

Judgment delivered: 30 June 2016

Coram: Cromwell, Moldaver, Karakatsanis, Wagner, Gascon, Côté and Brown JJ

Catchwords:

Constitutional law — Charter of Rights — Right to be tried within reasonable time — Delay of three years to trial — Whether accused's right to be tried within reasonable time under s. 11(b) of Canadian Charter of Rights and Freedoms infringed.

Held (7:0): Appeal allowed.

Contract Law

BNY Mellon Corporate Trustee Services Ltd v LBG Capital No 1 plc and Anor

Supreme Court of the United Kingdom: [\[2016\] UKSC 29](#)

Judgment delivered: 16 June 2016

Coram: Lord Neuberger of Abbotsbury PSC, Lord Mance, Lord Clarke of Stone-cum-Ebony, Lord Sumption, Lord Toulson JJSC

Catchwords:

Contract — Construction — Trust deed — Banking group issuing enhanced capital notes — Notes redeemable before maturity date if capital disqualification event occurring — Disqualification event deemed to have occurred if notes ceasing to be taken into account in stress test applied by regulatory authority to group's core tier 1 capital — Regulatory changes replacing core tier 1 capital with common equity tier 1 capital — Stress test carried out and notes not taken into account — Whether capital disqualification event occurring

Held (3:2): Appeal dismissed.

Corporate Law

Krayzel Corp v Equitable Trust Co

Supreme Court of Canada: [2016 SCC 18](#)

Judgment delivered: 06 May 2016

Coram: McLachlin CJ and Abella, Cromwell, Moldaver, Karakatsanis, Wagner, Gascon, Côté and Brown JJ.

Catchwords:

Corporate Law — Mortgages — Interest — Rate of interest — Payments in arrears — Mortgage terms providing for discount — Legislation precluding mortgagee from imposing terms that have effect of charging higher rate of interest on money in arrears than that charged on principal money not in arrears — Whether legislation offended by terms of mortgage agreement imposing an “interest rate” that takes effect only where mortgagor falls into default by failing to make prescribed payments at lower “pay rate” of interest or by failing to pay out loan upon maturity — Whether there is distinction between 1) terms imposing, by way of penalty, a higher rate in event of default, and 2) terms reserving, by way of discount, a lower rate in event of no default — Interest Act, R.S.C. 1985, c. I-15, ss. 2 , 8 .

Held (6:3): Appeal allowed.

Sportzone Motorcycles Ltd and Anor v Commerce Commission
Supreme Court of New Zealand: [\[2016\] NZSC 53](#)

Judgment delivered: 12 May 2016

Coram: Elias CJ, William Young, Glazebrook, Arnold and O'Regan JJ

Catchwords:

Corporate law – *Credit Contracts and Consumer Finance Act 2003* – Where the appellants provided finance to consumer in connection with the purchase of motorcycles – Where fees were payable under credit contracts including establishment fees, monthly account maintenance fees, prepayment administration fees and default fees – Where costs were covered by fees rather than by interest on the loans – Whether the fees provided for in the credit contracts were unreasonable under the Act.

Held (5:0): Appeal dismissed.

Brown and another, the Joint Administrators of Questway Limited v Pelosi (Scotland); Brown and another, the Joint Administrators of Oceancrown Limited v Stonegale Limited (Scotland); Brown and another, the Joint Administrators of Loanwell Limited v Stonegale Limited (Scotland)
Supreme Court of the United Kingdom: [\[2016\] UKSC 30](#)

Judgment delivered: 22 June 2016

Coram: Lord Neuberger, Lord Sumption, Lord Reed, Lord Carnwath, Lord Hodge

Catchwords:

Corporate law – Insolvency – Where there were 4 transfers of property before administration - Where the Extra Division of the Inner House upheld decision that 4 transfers of property by the group of various companies were alienations under s 242 of the *Insolvency Act 1986* – Remedy – Whether the respondents were entitled to remedy they received.

Held (5:0): Appeal dismissed.

Criminal Law

Ocasio v United States

Supreme Court of the United States: [Docket No 14-361](#)

Judgment delivered: 2 May 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Criminal law – *Hobbs Act*, 18 U.S.C. § 1951 – Where petitioner was charged with obtaining money through a kickback scheme from auto repair shops – Where Act prevents obtaining money ‘from another’ – Whether ‘another’ means someone outside the conspiracy.

Held (5:3): Affirmed

Secretary for Justice v Global Merchant Funding Ltd

Hong Kong Court of Final Appeal: [\[2016\] HKCFA 30](#)

Judgment delivered: 16 May 2016

Coram: Chief Justice Ma, Mr Justice Ribeiro PJ, Mr Justice Tang PJ, Mr Justice Fok PJ and Lord Clarke of Stone-cum-Ebony NPJ

Catchwords:

Criminal law – Where respondent was charged under s 29(1)(a) of the Money Lenders Ordinance for the offence of carrying on a business as a money lender without a licence – Whether the transactions between the respondent and its merchants should be categorised as loans or as purchases of receivables.

Held (5:0): Appeal dismissed.

HKSAR v Ata Asaf

Hong Kong Court of Final Appeal: [\[2016\] HKCFA 31](#)

Judgment delivered: 17 May 2016

Coram: Chief Justice Ma, Mr Justice Ribeiro PJ, Mr Justice Tang PJ, Mr Justice Fok PJ and Lord Clarke of Stone-cum-Ebony NPJ

Catchwords:

Criminal law – Right to silence – Where appellant was arrested with drugs in his possession – Where the appellant asserted that the drugs were for his own personal use – Where the appellant was questioned at trial about his failure to inform police about the location of his drug-taking equipment – Where inadmissible evidence was left to the jury.

Held (5:0): Appeal allowed.

Luna Torres v Lynch

Supreme Court of the United States: [Docket No 14-1091](#)

Judgment delivered: 19 May 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Criminal law – Statutory interpretation – Where any alien convicted of an ‘aggravated felony’ after entering the United States is deportable, ineligible for several forms of discretionary relief, and subject to expedited removal per 8 U.S.C. §§1227(a)(2)(A)(iii), (3) – Where an ‘aggravated felony’ is an offence ‘described in’ a specific statute – Where crime is an ‘aggravated felony’ irrespective of whether it violates federal, state, or foreign law – Where federal criminal statutes must reference a head of power – Where federal arson offence contains reference to federal trade and commerce – Whether New York arson offence is ‘described in’ the federal code.

Held (5:3): Affirmed.

Foster v Chatman

Supreme Court of the United States: [Docket No 14-8349](#)

Judgment delivered: 23 May 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Criminal law – Jury selection – *Batson v Kentucky*, 476 U.S. 79. – Where during trial the State used peremptory challenges to strike all four black prospective jurors – Prosecution documents - Where names on documents were highlighted to ‘represent blacks’ – Where investigator noted ‘if it comes down to having to pick one of the black jurors, [this one] might be okay’ – Where prosecution notes identified black prospective jurors as “B#1”, “B#2” and “B#3” – Where prosecution notes had “N” (for “no”) appearing next to the names of all six black prospective jurors – Where prosecution had a list titled “[D]efinite No’s” containing six names, including the names of all the qualified black prospective jurors – Where prosecution documents contained note “No Black Church” – Whether decision that defendant had failed to show purposeful discrimination was erroneous.

Held (7:1): Reversed and remanded.

R v D.L.W.

Supreme Court of Canada: [2016 SCC 22](#)

Judgment delivered: 9 June 2016

Coram: McLachlin CJ and Abella, Cromwell, Moldaver, Karakatsanis, Côté and Brown JJ.

Catchwords:

Criminal law — Bestiality — Elements of offence — Interpretation — Accused convicted of bestiality — Accused put peanut butter on complainant’s vagina and had dog lick it off while he videotaped — Whether term “bestiality” has well-understood legal meaning in common law and if so, whether Parliament intended to depart from that meaning when that term was first introduced in English version of Criminal Code — Whether penetration an essential element of offence of bestiality — Criminal Code, R.S.C. 1985, c. C-46, s. 160 .

Held (6:1): Appeal dismissed.

Puerto Rico v Sanchez Valle

Supreme Court of the United States: [Docket No 15-108](#)

Judgment delivered: 9 June 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Criminal law – Double Jeopardy Clause – Where respondents had sold a gun to an undercover police officer – Where Puerto Rican prosecutors indicted respondents for illegally selling firearms in violations of the *Puerto Rico Arms Act* of 2000 – Where federal grand juries indicted the respondents, for the same transactions, on analogous US gun trafficking statutes – Whether Puerto Rico and the United States are separate sovereign bodies – Whether indictments under Puerto Rican law should be dismissed due to the Double Jeopardy Clause.

Held (6:2): Affirmed.

Utah v Strieff

Supreme Court of the United States: [Docket No 14-1373](#)

Judgment delivered: 20 June 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Criminal law – Where police officer was monitoring drug activity – Where respondent was observed leaving residence under surveillance – Unlawful investigatory stop – Where warrant was outstanding – Where the respondent was searched – Where respondent was found to be carrying methamphetamine and drug paraphernalia – Whether evidence was inadmissible – Application of *Brown v Illinois* 222 U.S. 590.

Held (5:3): Reversed.

Taylor v United States

Supreme Court of the United States: [Docket No 14-6166](#)

Judgment delivered: 20 June 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Criminal law – Federal offence – Connection to interstate trade or commerce – Where Government had sought to excluded evidence that accused traded only in locally-grown marijuana.

Held (7:1): Affirmed.

Mathis v United States

Supreme Court of the United States: [Docket No 15-6092](#)

Judgment delivered: 23 June 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Criminal law – Sentencing – Prior convictions – Whether petitioners prior conviction is a listed crime under 18 U.S.C. §§924(e)(1), (e)(2)(B)(ii).

Held (5:3): Reversed.

McDonnell v United States

Supreme Court of the United States: [Docket No 15-474](#)

Judgment delivered: 27 June 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Criminal law – *Hobbs Act* – Extortion – Where the petitioner was the former Virginia Governor – Where the petitioner was convicted for extortion for their acceptance of \$175,000 in loans, gifts and other benefits from a Virginia businessman – Where the Government was required to prove that the Governor had committed an ‘official act’ – Conduct amounting to an ‘official act’

Held (8:0): Vacated and remanded.

Voisine v United States

Supreme Court of the United States: [Docket No 14-10154](#)

Judgment delivered: 27 June 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Criminal law – Federal prohibition on firearms possession – Where Congress had extended ban of possession of firearms to persons convicted of a ‘misdemeanour crime of domestic violence’ – Where petitioner pleaded guilty to assaulting his girlfriend in violation of §207 of the Maine

Criminal Code – Whether a reckless domestic assault qualifies as a ‘misdemeanour crime of domestic violence’.

Held (6:2): Affirmed.

Debt Collection

Sheriff v Gillie

Supreme Court of the United States: [Docket No 15-338](#)

Judgment delivered: 16 May 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Debt collection – Where *Fair Debt Collection Practices Act* bars ‘false, deceptive, or misleading representation[s] ... in connection with the collection of any debt’ – Where in Ohio, overdue debts to state-owned agencies and instrumentalities are certified to the State’s Attorney General for collection or disposition – Whether the Attorney General appoints private attorneys as independent counsel – Where debt collection letters were sent on the letterhead of the Attorney General – Whether use of letterhead contravened § 1692e.

Held (8:0): Reversed and remanded.

Discrimination

Onu v Akwivu and Anor; Taiwo v Olaigbe and Anor

Supreme Court of the United Kingdom: [\[2016\] UKSC 31](#)

Judgment delivered: 22 June 2016

Coram: Baroness Hale of Richmond DPSC, Lord Wilson , Lord Reed , Lord Hughes , Lord Toulson JJSC

Catchwords:

Discrimination — Race — Less favourable treatment — Migrant domestic worker of Nigerian nationality — Claim of mistreatment by employers on racial grounds — Tribunal finding treatment due to vulnerable migrant status not race — Whether status as migrant worker indissociably linked to nationality — Whether direct discrimination — Whether indirect discrimination — Whether claim of post-employment victimisation established — Equality Act 2010 (c 15), ss 13, 19.

Law reform — Whether necessary — Compensation for ill-treated workers — Migrant workers with limited leave to remain on domestic workers' visas — Workers exploited and mistreated by employers — Whether employment tribunals ought to have jurisdiction to award compensation for ill-treatment where no unlawful discrimination.

Held (5:0): Appeals dismissed.

Education

Federation of Governing Bodies for South African Schools v Member of the Executive Council for Education, Gauteng and Anor
Constitutional Court of South Africa: [\[2016\] ZACC 14](#).

Judgment delivered: 20 May 2016

Coram: Mogoeng CJ, Moseneke DCJ, Bosielo AJ, Cameron J, Froneman J, Jafta J, Khampepe J, Madlanga J, Mhlantla J, Nkabinde J and Zondo J

Catchwords:

Education — Regulations Relating to the Admission of Learners to Public Schools in Gauteng — validity of amendments promulgated in 2012 — Whether there is conflict between national and provincial legislation — Whether impugned regulations are rational, reasonable and justifiable — cooperative governance to ensure universal access to basic education — MEC to determine feeder zones

Held (11:0): Appeal allowed.

Elections

Electoral Commission v Mhlope and Ors
Constitutional Court of South Africa: [\[2016\] ZACC 15](#).

Judgment delivered: 14 June 2016.

Coram: Mogoeng CJ, Moseneke DCJ, Bosielo AJ, Cameron J, Froneman J, Jafta J, Khampepe J, Madlanga J, Mhlantla J, Nkabinde J and Zondo J

Catchwords:

Elections – Local government elections – Voter Rolls – Incomplete rolls - Whether the Electoral Commission is required to have a national common voters' roll that has addresses of registered voters for the purposes of the local government elections.

Held (11:0): Appeal dismissed.

Extradition

Goluchowski v District Court of Elblag, Poland; Sas v Circuit Court in Zielona Gora and District Court in Jelenia Gora, Poland
Supreme Court of the United Kingdom: [\[2016\] UKSC 36](#)

Judgment delivered: 29 June 2016

Coram: Lord Neuberger, Lord Mance, Lord Wilson, Lord Hughes, Lord Toulson

Catchwords:

Extradition – European Arrest Warrants – Where European Arrest Warrants were issued for the appellants extradition to Poland – Whether the warrants were defective under the s 2(6)(c) of the *Extradition Act* 2003 - Whether Act requires European Arrest Warrants to contain particulars of domestic warrants issued in the category 1 territory – Does the term ‘any other warrant issued in the category 1 territory for the person’s arrest in respect of the offence’ in s 2(6)(c) require the European Arrest Warrant to include the conviction of the requested person – Application of *Poland v Wojciechowski* [2014] EQHC 412.

Held (5:0): Appeal dismissed.

Fraud

Husky International Electronics Inc v Ritz
Supreme Court of the United States: [Docket No 15-145](#).

Judgment delivered: 16 May 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Fraud – *Bankruptcy Code* – 11 U.S.C. § 523(a)(2)(A) – Whether the term ‘actual fraud’ in the *Bankruptcy Code* encompasses fraudulent conveyance schemes – Where fraudulent conveyance schemes do not involve a false representation.

Held (7:1): Reversed and remanded.

Universal Health Services, Inc v Unites States ex rel Escobar
Supreme Court of the United States: [Docket No 15-7](#).

Judgment delivered: 16 June 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Fraud – *False Claims Act* – Where Act imposed significant penalties on anyone who “knowingly presents ... a false or fraudulent claim for payment or approval” to the Federal Government, 31 U.S.C. §3729(a)(1)(A) – Whether petitioner defrauded the Medicare program – Whether petitioner misrepresented its compliance with Medical regulations – Implied false certification theory – Whether *False Claims Act* liability for failing to disclose violations of legal requirements turns upon whether those requirements were expressly designated as conditions of payment.

Held (8:0): Vacated and remanded.

Industrial Relations

Yung Chi Keung v Protection of Wages on Insolvency Board and Anor
Hong Kong Court of Final Appeal: [\[2016\] HKCFA 32](#).

Judgment delivered: 17 May 2016

Coram: Chief Justice Ma, Mr Justice Ribeiro PJ, Mr Justice Tang PJ, Mr Justice Fok PJ and Lord Clarke of Stone-cum-Ebony NPJ

Catchwords:

Industrial relations – Payment of wages – Where employer went into voluntary administration – Where applicant applied for unpaid wages under the Protection of Wages on Insolvency Ordinance Cap 380 - How to calculate severance.

Held (5:0): Appeal allowed.

McBride v Scottish Police Authority
Supreme Court of the United Kingdom: [\[2016\] UKSC 27](#)

Judgment delivered: 15 June 2016

Coram: Baroness Hale of Richmond DPSC, Lord Clarke of Stone-cum-Ebony, Lord Wilson, Lord Reed, Lord Hodge JJSC

Catchwords:

Employment — Unfair dismissal — Reinstatement — Claimant fingerprint expert having given evidence in high profile trial — Evidence later challenged by other experts leading to acquittal — Employer placing claimant on restricted duties excluding court work owing to prosecuting authorities' refusal to use claimant in future cases — Claimant carrying out restricted duties for several years but then dismissed — Employment tribunal holding dismissal unfair and ordering reinstatement "as a non court going fingerprint officer" — Reinstatement order quashed by appellate court as amounting to order to employ claimant on amended terms — Whether order alteration of terms of contact or mere recognition of practical limitation on scope of claimant's work

Held (5:0): Appeal allowed.

Encio Motorcars, LLC v Navarro

Supreme Court of the United States: [Docket No 15-415](#)

Judgment delivered: 20 June 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Industrial relations – Regulations – Where Congress enacted an exemption from the overtime compensation requirement for 'any salesman, parts-man, or mechanic primarily engaged in selling or servicing automobiles' at a covered dealership – Where in 1970 the Department issued regulation defining 'salesperson' – Where in subsequent rulings that Department changed the definition of 'salesperson' – How to determine the definition of 'salesperson'.

Held (6:2): Vacated and remanded.

Intellectual Property

Halo Electronics, Inc v Pulse Electronics, Inc

Supreme Court of the United States: [Docket No 14-1513](#).

Judgment delivered: 13 June 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Intellectual property – *Patent Act* – Where, per 35 U.S.C. §284, in a case of an infringement, courts ‘may increase the damages up to three times the amount found or assessed – Where the Federal Circuit adopted a two-part test for determining whether damages may be increased pursuant to §284 – Application of *In re Seagate Technology, LLC*, 497 F. 3d 1360 – Whether *Seagate* test is consistent with §284.

Held (8:0): Vacated and remanded.

Cuozzo Speed Technologies, LLC v Lee

Supreme Court of the United States: [Docket No 15-446](#)

Judgment delivered: 20 June 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Intellectual Property – *Leahy-Smith America Invents Act* – ‘Inter partes review’ – Where Act provides that Patent Office’s decision ‘whether to institute an inter partes review ... shall be final and non-appealable’ – Where regulation issued by Patent Office provides that ‘during inter partes review, a patent claim ‘shall be given its broadest reasonable construction’ - Whether decision to institute an inter partes review is non-appealable – Whether Patent Office regulation is valid.

Held (8:0): Affirmed.

Jurisdiction

Merrill Lynch, Pierce, Fenner & Smith Inc v Manning

Supreme Court of the United States: [Docket No 14-1132](#).

Judgment delivered: 16 May 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Jurisdiction – *Securities Exchange Act* of 1934 – Jurisdictional test – Whether the test under 28 U.S.C. §27 is the same as the test under 28 U.S.C. §1331 – How to determine whether a case ‘arises under’ a federal law.

Held (8:0): Affirmed.

RJR Nabisco, Inc v European Community

Supreme Court of the United States: [Docket No 15-138](#).

Judgment delivered: 20 June 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito and Kagan JJ.

Catchwords:

Jurisdiction – Presumption against extraterritoriality doctrine – Where the *Racketeer Influenced and Corrupt Organizations Act* prohibits certain activities of organized crime groups in relation to an enterprise – Where accused smuggled narcotics into Europe and sold them for euros – Application of extraterritoriality doctrine to civil matters.

Held (4:3): Reversed and remanded.

In the matter of D (A Child)

Supreme Court of the United Kingdom: [\[2016\] UKSC 34](#)

Judgment delivered: 22 June 2016

Coram: Lord Neuburger, Lady Hale, Lord Clarke, Lord Wilson, Lord Hughes

Catchwords:

Jurisdiction – s 40 *Constitutional Reform Act 2005* – Brussels II (Revised) Regulation - Where father made application for English Courts to enforce a court order from Romania – Where High Court refused fathers application - Whether Brussels II (Revised) Regulation overrides jurisdiction given to the Supreme Court by the *Constitutional Reform Act 2005*.

Held (5:0): Appeal struck out.

Land

Ririnui v Landcorp Farming Limited and Anor

Supreme Court of New Zealand: [\[2016\] NZSC 62](#)

Judgment delivered: 9 June 2016.

Coram: Elias CJ, William Young, Glazebrook, Arnold and O'Regan JJ

Catchwords:

Land – Judicial review – Where respondent agreed to sell land on the erroneous assumption that there was no claims to the land – Where

Ministers failed to intervene – Whether there was bad faith – Whether the decision to proceed with the sale was based on erroneous advice – Material mistake – Remedies.

Held (3:2): Appeal allowed in part.

Medical

In the matter of an application by JR55 for Judicial Review (Northern Ireland)

Supreme Court of the United Kingdom: [\[2016\] UKSC 22](#)

Judgment delivered: 11 May 2016

Coram: Lord Neuberger, Lord Clarke, Lord Sumption, Lord Carnwath, Lord Toulson

Catchwords:

Medical – Commissioner – Complaint – General practitioner referring patient with chest pains to clinic – Clinic refusing to grant appointment – General practitioner failing to notice reply letter – General practitioner failing to follow up appointment with clinic – Patient dying from heart disease – Widow complaining to Northern Ireland Complainants Commissioner – Commissioner finding maladministration and requesting general practitioner to make consolatory payment to widow – Whether commissioner having power to request payment – Whether power exercised correctly – Whether quantification of payment lawful – Commissioner for Complaints (Northern Ireland) Order 1996, SI 1996/1927, arts 7, 8, 11, 16.

Held (5:0): Appeal dismissed.

Migration

MS (Uganda) v Secretary of State for the Home Department

Supreme Court of the United Kingdom: [\[2016\] UKSC 33](#)

Judgment delivered: 22 June 2016

Coram: Lord Neuberger of Abbotsbury PSC, Baroness Hale of Richmond DPSC, Lord Wilson, Lord Hughes, Lord Toulson JJSC

Catchwords:

Migration — Asylum — Appeal — Student with leave to remain subsequently making asylum claim — Asylum refused — Whether claimant entitled to appeal against refusal of asylum where leave to remain pre-

dating refusal — Nationality, Immigration and Asylum Act 2002 (c 41), s 83(1)(b)

Held (5:0): Appeal dismissed.

Procedure

Eclipse Film Partners No 35 LLP v Revenue and Customs Comrs (No 2)
Supreme Court of the United Kingdom: [\[2016\] UKSC 24](#)

Judgment delivered: 11 May 2016

Coram: Lord Neuberger of Abbotsbury PSC, Lord Mance , Lord Sumption , Lord Toulson , Lord Hodge JJSC

Catchwords:

Procedure — Tribunal — First-tier Tribunal — Practice — Costs — — Procedure Rules for tax assessment appeals — Rule giving tribunal general case management powers — Further rule giving tribunal power to make order for costs in specified circumstances including appeals allocated to complex case category — Right of taxpayer to disapply complex case costs power in favour of normal rule that each side pay own costs — Appellant taxpayer exercising right to disapply — Subsequent directions hearing — Tribunal order that taxpayer prepare court bundles with revenue sharing cost of production — Appeal dismissed and taxpayer invoicing revenue for half costs of preparing bundles — Revenue seeking quashing of order to pay half costs — Whether power to make costs order under general case management rule — Whether power limited to circumstances set out in specific costs rule — Whether order to be quashed — Tribunal Procedure (First-tier Tribunal)(Tax Chamber) Rules 2009 (SI 2009/273 (L1)) (as amended by Tribunal Procedure (Amendment No 3) Rules 2010 (SI 2010/ 2653 (L 16), r 6(4)), rr 5, 10

Held (5:0): Appeal dismissed.

CRST Van Expedited INC v Equal Employment Opportunity Commission
Supreme Court of the United States: [Docket No 14-1375](#).

Judgment delivered: 19 May 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Procedure – Attorney’s fees – Meaning of ‘prevailing party’ – Whether the Eighth Circuit erred by holding that a Title VII defendant can be a ‘prevailing party’ only by obtaining a ‘ruling on the merits’.

Held (8:0): Vacated and remanded.

Simmons v Himmelreich

Supreme Court of the United States: [Docket No 15-109](#).

Judgment delivered: 6 June 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Procedure – Judgment bar provision – Where respondent filed a suit under the *Federal Torts Claims Act* – Where the respondent filed a second: constitutional tort suit – Where first suit was dismissed under the ‘Exceptions’ sections of the *Federal Torts Claims Act* – Whether the judgment bar provisions apply to claims dismissed for falling within the ‘Exceptions’ section of the *Federal Torts Claims Act*.

Held (8:0): Affirmed and remanded.

Ross v Blake

Supreme Court of the United States: [Docket No 15-339](#).

Judgment delivered: 6 June 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Procedure – Where respondent was a prisoner – Where respondent was assaulted during move to segregation unit – *Prison Litigation Reform Act* of 1995 – Where an inmate is required to exhaust ‘such administrative remedies as are available’ before bringing suit to challenge prison conditions – Where petitioner argued that respondent had failed to pursue administrative remedies – Whether Fourth Circuit erred in holding that there is an unwritten ‘special circumstances’ exception.

Held (8:0): Vacated and remanded.

Dietz v Bouldin

Supreme Court of the United States: [Docket No 15-458](#).

Judgment delivered: 9 June 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Procedure – Jury – Where verdict was entered and jury was discharged – Where judge realised error in verdict – Where judge decided to rescind jury discharge order and recall jurors – Whether a federal district court has a limited inherent power to rescind a jury discharge order and recall a jury in a civil case.

Held (6:2): Affirmed

Kirtsaeng v John Wiley & Sons, Inc

Supreme Court of the United States: [Docket No 15-375](#).

Judgment delivered: 16 June 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Procedure – Attorney’s fees – Awarding of attorney’s fees – Where District Court denied the application of attorney’s fees on the basis that the Respondents position had been ‘reasonable’ – Whether District Court erred in the denial of the award of attorney’s fees – Principles to be considered in the award of attorney’s fees.

Held (8:0): Vacated and remanded.

R (on the application of Bancoult (No 2)) v Secretary of State for Foreign and Commonwealth Affairs

Supreme Court of the United Kingdom: [\[2016\] UKSC 35](#)

Judgment delivered: 29 June 2016

Coram: Lord Neuberger, Lady Hale, Lord Mance, Lord Kerr, Lord Clarke

Catchwords:

Procedure – The habitation of the British Indian Ocean Territories – Where the appellant seeks to overturn 2008 decision in *R (Bancoult) v Secretary*

of State for Foreign and Commonwealth Affairs (No 2) [2008] UKHL 61 – Where report argued that the long term costs of inhabitation would be prohibitive – Where in 2008 decision the Secretary of State failed to disclose relevant documentary evidence.

Held (3:2): Appeal dismissed.

Property

Heritage Capital Corp v Equitable Trust Co
Supreme Court of Canada: [2016 SCC 19](#)

Judgment delivered: 06 May 2016

Coram: McLachlin CJ and Abella, Cromwell, Moldaver, Karakatsanis, Wagner, Gascon, Côté and Brown JJ.

Catchwords:

Property — Real property — Sale — Right to incentive payments arising under Incentive Agreement registered by caveat on title to land — City adopting by-law designating building as municipal historical resource under Historical Resources Act — City entering into agreement with building owner providing for yearly payments over 15 years to compensate for decrease in economic value due to designation and for cost of rehabilitation work, and imposing restrictions on use of building — Agreement registered by caveat on title to land — Building sold in judicial sale — Whether incentive payments constitute positive covenant running with land either by virtue of Historical Resources Act or by virtue of agreement between City and building owner — Whether incentive payments sold as asset in judicial sale — Historical Resources Act, R.S.A. 2000, c. H-9, s. 29.

Personal property security — City entering into agreement with building owner providing for incentive payments to compensate for decrease in economic value due to historic resource designation and for cost of rehabilitation work — Building owner assigning right to incentive payments to two successive lenders as security for loans — Building sold in judicial sale — First lender assigning interest in payments to purchaser after closing of sale — Whether priority of interests in payments governed by Personal Property Security Act, R.S.A. 2000, c. P-7.

Held (9:0): Appeal allowed.

McDonald v McDonald and Ors

Supreme Court of the United Kingdom: [\[2016\] UKSC 28](#)

Judgment delivered: 15 June 2016

Coram: Lord Neuberger, Lady Hale, Lord Kerr, Lord Reed, Lord Carnwath

Catchwords:

Housing — Assured shorthold tenancy — Order for possession — Private landlord seeking possession order — Tenant claiming disproportionate interference with Convention right to respect for home — Whether proportionality test applying — Housing Act 1988 (c 50), s 21(4) (as amended by Housing Act 1996 (c 52), s 98(3)) — Human Rights Act 1998 (c 42), Sch 1, Pt I, art 8

Held (5:0): Appeal dismissed.

Shipping

NYK Bulkship (Atlantic) NV v Cargill International SA

Supreme Court of the United Kingdom: [\[2016\] UKSC 20](#)

Judgment delivered: 11 May 2016

Coram: Lord Neuberger of Abbotsbury PSC, Lord Mance, Lord Clarke of Stone-cum-Ebony, Lord Sumption, Lord Toulson JJSC

Catchwords:

Shipping — Charterparty — Time charter — Construction — Off-hire provision — Charterparty allowing sub-charters but charterers remaining ultimately liable for unloading of vessel at port of discharge — Charterparty stipulating that vessel off-hire if arrested save where arrest occasioned by act, omission or default of charterer or “agent” of charterer — Vessel arrested outside port of discharge as result of dispute between parties to sub-charter — Start of unloading delayed until dispute resolved — Shipowner claiming vessel not off-hire during period of delay as sub-charter parties deemed to be charterers’ agents — Whether sub-charter parties acting as charterers’ agents only during actual performance of discharging — Whether acts of sub-charter parties leading to arrest outside scope of agency — Whether charterers able to rely on off-hire provision

Ships’ names — Global Santosh

Held (4:1): Appeal allowed.

PST Energy 7 Shipping LLC and Anor v O W Bunker Malta Ltd and Anor
Supreme Court of the United Kingdom: [\[2016\] UKSC 23](#)

Judgment delivered: 11 May 2016

Coram: Lord Neuberger of Abbotsbury PSC, Lord Mance , Lord Clarke of Stone-cum-Ebony , Lord Hughes , Lord Toulson JJSC

Catchwords:

Shipping — Sale of goods — Property, whether passing — Retention of title — Contract for the supply of bunkers — Payment on credit terms with title passing only on payment — Owners entitled to use bunkers before payment for propulsion of vessel — Whether contract to which statutory provisions concerning sale of goods applying — Whether suppliers entitled to recover price of bunkers from owners — Sale of Goods Act 1979 (c 54), ss 2, 49

Ships' names — Res Cogitans

Held (5:0): Appeal dismissed.

Standing

Spokeo Inc v Robins

Supreme Court of the United States: [Docket No 13-1339](#)

Judgment delivered: 16 May 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Standing – Where petitioner operated a ‘people search engine’ which searches a wide spectrum of databases to gather and provide personal information about individuals to users, including potential employers – Where respondents profile contained inaccurate information – Article III standing analysis – Where an injury must be both concrete and particularised – Whether the Ninth Court erred in its Article III analysis.

Held (6:2): Vacated and remanded.

Wittman v Personhuballah

Supreme Court of the United States: [Docket No 14-1504](#)

Judgment delivered: 23 May 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Standing – Virginia’s 2013 congressional redistricting plan – Where voters from Virginia’s Congressional District 3 challenged plan – Where Members of Congress intervened – Whether Members had standing under Article III.

Held (8:0): Appeal dismissed.

Statutory Interpretation

The Real Estate Developers Association of Hong Kong v Building Authority

Hong Kong Court of Final Appeal: [\[2016\] HKCFA 34](#)

Judgment delivered: 19 May 2016

Coram: Chief Justice Ma, Mr Justice Ribeiro PJ, Mr Justice Tang PJ, Mr Justice Fok PJ and Lord Clarke of Stone-cum-Ebony NPJ

Catchwords:

Statutory interpretation – Section 14 of the Buildings Ordinance – Whether *Attorney General v Cheng Yick Chi* [1983] 1 HKC 14 was correctly decided – Meaning of the word ‘site’.

Held (5:0): Appeal dismissed.

Green v Brennan

Supreme Court of the United States: [Docket No 14-613](#)

Judgment delivered: 23 May 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Alito, Sotomayor and Kagan JJ.

Catchwords:

Statutory interpretation – Title VII of the *Civil Rights Act* of 1964 – Limitations period – Where employee signed agreement to retire or to accept another position in a remote location if employer did not pursue

criminal charges – Where employee subsequently required – Where employee contacted counsellor 41 days after resigning and 96 days after signing agreement – Where Act requires a complainant to contact counsellor with 45 days after ‘matter alleged to be discriminatory’ – Whether resignation is the ‘matter alleged to be discriminatory’ in a constructive-discharge claim.

Held (7:1): Vacated and remanded.

Puerto Rico v Franklin California Tax-Free Trust
Supreme Court of the United States: [Docket No 15-233](#).

Judgment delivered: 13 June 2016

Coram: Roberts CJ, Kennedy, Thomas, Ginsburg, Breyer, Sotomayor and Kagan JJ.

Catchwords:

Statutory interpretation – *Puerto Rico Public Corporation Debt Enforcement and Recovery Act* – *Bankruptcy Code* – Whether section 903(1) of the *Bankruptcy Code* pre-empts Puerto Rico's *Recovery Act*.

Held (5:2): Affirmed.

Taxation

Airtours Holiday Transport Ltd v Revenue and Customs Comrs
Supreme Court of the United Kingdom: [\[2016\] UKSC 21](#)

Judgment delivered: 11 May 2016

Coram: Lord Neuberger of Abbotsbury PSC , Lord Mance , Lord Clarke of Stone-cum-Ebony , Lord Carnwath , Lord Hodge

Catchwords:

Revenue — Value added tax — Deductibility of input tax — Taxpayer company and creditor banks entering into tripartite agreement with accountants to provide report to banks on taxpayers' proposed restructuring — Taxpayer liable for accountants' fees together with VAT — Whether accountant's services supplied to taxpayer or to banks — Whether taxpayer entitled to deduct as input tax VAT paid to accountants

Held (3:2): Appeal dismissed.

Canada (National Revenue) v Thompson
Supreme Court of Canada: [2016 SCC 21](#)

Judgment delivered: 3 June 2016

Coram: McLachlin CJ and Abella, Rothstein, Cromwell, Karakatsanis, Wagner and Gascon JJ

Catchwords:

Taxation — Income tax — Enforcement — Solicitor-client privilege — Statutory requirement to provide documents or information for purposes of audit and enforcement — Lawyer refusing to comply with request for details about his accounts receivable claiming solicitor-client privilege — Whether definition of “solicitor-client privilege” in Income Tax Act was intended to exclude lawyer’s accounting records — Whether Federal Court of Appeal acted appropriately in sending taxpayer’s case back to Federal Court — Income Tax Act, R.S.C. 1985, c. 1 (5th Supp.), ss. 231.2(1), 231.7(1), 232(1) “solicitor-client privilege”.

Held (6:0): Appeal allowed. Rothstein J took no part in the judgment.

Workers Compensation

British Columbia (Workers’ Compensation Appeal Tribunal) v Fraser Health Authority

Supreme Court of Canada: [2016 SCC 24](#)

Judgment delivered: 24 June 2016

Coram: McLachlin CJ and Abella, Moldaver, Karakatsanis, Wagner, Côté and Brown JJ.

Catchwords:

Workers’ compensation — Occupational disease — Causation — Evidence — Standard of proof — Hospital laboratory technicians diagnosed with breast cancer applying for compensation on basis that their cancers are occupational diseases — Compensation payable if employment is of causative significance in development of disease — Medical experts unable to find sufficient scientific basis to establish causal link between workers’ cancers and employment — Whether Tribunal erred in its approach to causation in deciding that workers’ cancer was occupational disease arising due to nature of employment — Workers Compensation Act, R.S.B.C. 1996, c. 492, ss. 6, 250(4)

Held (6:1): Appeal allowed.