

Fiona Cain in ICLG: U.K. Supreme Court Clarifies "Reasonable Endeavours" Interpretation

May 15, 2024 Fiona Cain

PRACTICES Shipping, Shipping Dispute Resolution

Haynes Boone Counsel [Fiona Cain](#) was quoted in an *International Comparative Legal Guides* publication after the U.K. Supreme Court issued a unanimous judgment in the case of *RTI v MUR Shipping*, clarifying the interpretation of “reasonable endeavours” provisions within force majeure clauses in commercial contracts. The decision centres on whether a party invoking force majeure can be compelled to accept non-contractual performance from the other party to mitigate the effects of the force majeure event.

Cain told *ICLG News* in an email: “The Supreme Court has held that the exercise of reasonable endeavours in a force majeure clause will not generally require a party to accept non-contractual performance (such as payment in alternative currencies), and that this principle is of general applicability and not confined to the immediate drafting. The decision should help avoid the need to consider delicate factual considerations in deciding whether non-contractual performance would be acceptable – the considerations are limited to the steps that can be taken to ensure contractual performance, nothing more.”

“The Court also emphasised that it would be open to parties to provide that alternative performance could be required by a party seeking to rely on a force majeure clause, but that clear words were needed to achieve this,” Cain added. “It is clear from this judgment, if it was in doubt, that if parties want to allow non-contractual means of performance, then they should therefore make this very clear.”

Cain concluded: “Overall, the Court’s judgment should be welcomed as making clear that parties to a contract have agreed to what is set out in their agreements, and a ‘reasonable endeavours’ obligation does not alter contractual performance. This removes the significant uncertainty that would be caused in requiring a party to accept ‘reasonable’ non-contractual performance.”

To read the full article from *ICLG*, click [here](#).