

# Return to Sender - Post Office Group Litigation Sheds Light on Good Faith and Onerous Terms in Relational Contracts

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October 22, 2019

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PRACTICES International Arbitration, Litigation

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## Introduction

The recent case of *Bates v Post Office Ltd (No 3)* [2019] EWHC 606 (QB) 2019 involved a trial of a number of “common issues” as part of the group litigation by sub-postmasters against the Post Office based largely around the question of whether the former should be held liable for accounting shortfalls in post office branches which the sub-postmasters maintain were due to defects in the accounting software they were obliged to use. The judgment by Fraser J in the High Court sheds further light on the law relating to good faith in relational contracts and the incorporation of onerous and unusual terms.

## Background

There were 589 claimants, who were mostly sub-postmasters responsible for running Post Office branches. The Post Office contracted with them on two standard forms and allowed no negotiation over their terms. The first form, the Sub Postmasters Contract (“SPMC”), used for contracts made before 2011, stated that the sub-postmaster was responsible for all losses caused through his or her negligence, carelessness or error, and also for losses caused by his or her assistants. In 2011, the Post Office then introduced the Network Transformation Contract (“NTC”). With one exception, this stated that the sub-postmaster should be fully liable for any loss, however that occurred and whether it occurred as a result of any negligence by the sub-postmaster, its personnel or otherwise.

The Post Office required the sub-postmasters to use an electronic point-of-sale and accounting system called Horizon. The claimants maintained that software defects in the system resulted in unexplained shortfalls and accounting discrepancies. Both contracts required the sub-postmaster to pay any shortfall in full. The Post Office maintained that individual sub-postmasters had to prove that the shortfalls were not their individual responsibility. Some claimants paid the shortfalls despite disputing them; some had their contracts terminated and others received criminal convictions. The Post Office later confessed that some of these prosecutions were wrong, which led to an investigation by the Criminal Cases Review Commission.

To read the full article, see the PDF linked below.

[Return-to-Sender-Post-Office-Group-Litigation.PDF](#)