

Morton in The Global Legal Post: ‘I’ll Note You in My Book of Memory’: The Importance of Contemporary Records’

July 17, 2023 Jonathan Morton

PRACTICES Shipping Dispute Resolution, Shipping

Counsel [Jonathan Morton](#) authored an article in *The Global Legal Post* discussing the importance of taking contemporary notes rather than relying on memory when it comes to disputes.

Read an excerpt below:

Parties that take contemporary notes rather than relying on memory are more likely to succeed when it comes to disputes. Nobody wants to run a project with their eye constantly on potential disputes, but should the worst happen, too often we find that ‘innocent’ parties face an uphill battle proving events and agreements not documented at the relevant time. Things are said on the ground and decisions are made during management of the project that could turn out to have significant impact on the legal rights of the parties, but no evidence exists save that of the memory of the individuals involved. And memory is a notoriously fickle beast. +

In growing awareness of the unreliable nature of memory, changes in the English Court rules on witness evidence over the last few years have placed even greater emphasis on the importance of contemporary records. Even a reference to a conversation in an email, or a note written on a phone, can be sufficient to convince a judge of the truth of a party’s recollection. The recent case of *Connoisseur Developments Ltd & Ors v Koumis* set out a useful overview of the court’s current thinking on memory and witness evidence, and highlighted both “the inevitable fallibility of memories over time” and “the difficulty of assessing the ‘demeanour’ of a witness as a guide to truth and accuracy”.

[Click here](#) to read this piece in full on *The Global Legal Post*.