



## OW BUNKER TEST CASE: THE *RES COGITANS* – PERMISSION TO APPEAL TO THE SUPREME COURT GRANTED

**In our update of 26 October 2015<sup>1</sup>, where we reported on the Court of Appeal (CA) decision in the *RES COGITANS*, we promised to update you on the status of any appeal of that decision to the Supreme Court.**

On 11 February 2016, to the relief of many, the Supreme Court has granted an application for PST Energy 7 Shipping LLC to appeal the CA's decision in this matter.

The CA upheld the first instance judge's decision that the Sale of Goods Act 1979 did not apply to the relevant OW Bunker contract and owners were bound to pay OW Bunker for fuel not owned by them, exposing owners to the risk of also having to pay unpaid bunker suppliers.

---

<sup>1</sup> <http://www.hfw.com/The-OW-Bunker-Court-of-Appeal-judgment-October-2015>

Practitioners and the industry will no doubt be welcoming the prospect of a ruling from the Supreme Court, which it is hoped will clarify an area of law which many commentators believe has produced an uncommercial and unsatisfactory result.

The date that the Supreme Court will sit to hear the appeal is not yet known, but we shall keep you updated.



For more information, please contact the authors of this briefing, or your usual contact at HFW.

**Paul Dean**

Partner, London  
T: +44 (0)20 7264 8363  
E: paul.dean@hfw.com

**Rory Grout**

Senior Associate, London  
T: +44 (0)20 7264 8198  
E: rory.grout@hfw.com

HFW has over 450 lawyers working in offices across Australia, Asia, the Middle East, Europe and South America. For further information about shipping issues in other jurisdictions, please contact:

**Guillaume Brajeux**

Partner, Paris  
T: +33 1 44 94 40 50  
E: guillaume.brajeux@hfw.com

**Paul Apostolis**

Partner, Singapore  
T: +65 6411 5343  
E: paul.apostolis@hfw.com

**Jeremy Davies**

Partner, Geneva  
T: +41 (0)22 322 4810  
E: jeremy.davies@hfw.com

**Gavin Valley**

Partner, Melbourne  
T: +61 (0)3 8601 4523  
E: gavin.valley@hfw.com

**Dimitri Vassos**

Partner, Piraeus  
T: +30 210 429 3978  
E: dimitri.vassos@hfw.com

**Nic van der Reyden**

Partner, Sydney  
T: +61 (0)2 9320 4618  
E: nic.vanderreyden@hfw.com

**Simon Cartwright**

Partner, Dubai  
T: +971 4 423 0520  
E: simon.cartwright@hfw.com

**Hazel Brewer**

Partner, Perth  
T: +61 (0)8 9422 4702  
E: hazel.brewer@hfw.com

**Nick Poynder**

Partner, Shanghai  
T: +86 21 2080 1001  
E: nicholas.poynder@hfw.com

**Jeremy Shebson**

Partner, São Paulo  
T: +55 (11) 3179 2903  
E: jeremy.shebson@hfw.com

**Paul Hatzer**

Partner, Hong Kong  
T: +852 3983 7666  
E: paul.hatzer@hfw.com

Lawyers for international commerce

hfw.com

© 2016 Holman Fenwick Willan LLP. All rights reserved

Whilst every care has been taken to ensure the accuracy of this information at the time of publication, the information is intended as guidance only. It should not be considered as legal advice.

Holman Fenwick Willan LLP is the Data Controller for any data that it holds about you. To correct your personal details or change your mailing preferences please contact Craig Martin on +44 (0)20 7264 8109 or email [craig.martin@hfw.com](mailto:craig.martin@hfw.com)

São Paulo London Paris Brussels Geneva Piraeus Beirut Riyadh Kuwait Abu Dhabi Dubai  
Singapore Hong Kong Shanghai Perth Melbourne Sydney