



In this series of articles, we aim to highlight 3 of the most interesting cases in our field decided in the past month. This month: loan interest and the defence of tender; paper title and boundary agreements; and forced entry to residential premises.

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Nuray Houssein v London Credit Limited [2026] EWCA Civ 830

Summary

The Court of Appeal considered what is necessary to stop interest running on a secured loan short of actual repayment.

The appellants had obtained finance from the respondent lender, on the basis that they would not occupy the property in question. In fact, they did occupy it, and the lender was fixed with that knowledge by reason of a sham inspection carried out on its behalf. The result of this was that the breach relied upon for enforcement action had been waived.

In the course of the dispute leading up to the determination of that state of affairs (which had been the subject of a previous trial), various offers were made by the borrowers to discharge their liabilities by way of alternative finance. At the hearing from which this appeal arose, the court considered whether any of those offers were sufficient to stop interest running on the loan by reason of the defence of tender.

The Court of Appeal dismissed the appeal; none of the offers were sufficient.

Why it's important

Lewison LJ, giving the leading judgment, gave a useful analysis of the basis of the defence of tender. On the basis that having finance available from another lender was not the same as having 'cash on the table' which the lender could accept, he explained that offers of refinance are materially different to an offer simply to repay. Additionally, an offer to refinance which the lender 'should' have accepted was not the same as an offer to repay.

Newey LJ agreed with Lewison LJ, but queried the position where an offer to refinance is received at a lower interest rate, and that offer is rejected by the existing lender.



The case will be of interest to practitioners dealing with refinancing, particularly in high-interest scenarios.

Todd v Marsh [2026] EWHC 1701 (Ch)

Summary

The High Court dismissed an appeal in a boundary dispute.

The appellants had contended unsuccessfully at trial that the boundary between the parties' plots was marked by a dog and deer proof fence. Both parties' experts had agreed that the registered plans and historic conveyances pointed to a different boundary, not along the line of the fence. The judge ruled in favour of the boundary as established by the paper title, and rejected an argument that discussions relating to repair of the fence following a storm amounted to a boundary agreement.

On appeal, the appellants argued that the judge had wrongly applied the general boundaries rule, and had erred in finding that there was no boundary agreement.

The High Court dismissed the appeal.

Why it's important

This case is a clear reminder that not all discussions regarding boundary features will amount to a boundary agreement. In this case, in the discussions about repair of the fence, the parties were not turning their minds to the position of the boundary, and so notwithstanding references to 'my side' and 'your side', there was no boundary agreement.

The case is also an illustration of a case where a clear paper title boundary meant it was ultimately unnecessary to look at extrinsic evidence to determine the position of the boundary.

Stonewater Limited v Harris [2026] EWCC 42

Summary

HHJ Glen, the Designated Civil Judge on the Western Circuit, determined that the court had power under CPR r70.2A(2) to make an order permitting forced entry to residential premises for the purposes of gas or electrical installation inspections. That rule permits that, where an order is not complied with "the court



may direct that the act required to be done may, so far as practicable, be done by another person”.

The tenancy agreement contained a clause requiring the tenant to permit the landlord access on notice for specified purposes. The claimant landlord had already obtained an injunction requiring the tenant to permit access on notice for an electrical inspection. Despite several attendances at the property, the landlord was unable to enter to inspect. The landlord applied for a variation to the order so as to permit reasonable force to be used, including changing the locks.

The Court determined that it had jurisdiction to make the order sought.

Why it's important

The issue of to what extent orders permitting forced entry of residential premises in these or similar circumstances are permitted by the rule in question has been the subject of conflicting County Court authority. Although this is a County Court decision and therefore not binding, it provides a useful analysis of the authorities, and is persuasive authority that such orders are permissible.

The Court also gave guidance to the effect that:

1. Careful drafting of tenancy agreements can ameliorate the issue with respect to which act is required to be done;
2. The court will expect to be informed of any known issues affecting the tenants, such as particular vulnerabilities they may have;
3. A ‘rolled up’ order providing both for the injunction and for the use of force is jurisdictionally possible, but likely to be undesirable;
4. Any access ordered should be on notice.

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