

# We're all going on a summer holiday (or to prison)

It's not all dodgy claims & disappointing descriptions: Dominic Regan outlines some reasons to be (cautiously) cheerful this summer



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It is that time of year, and indeed this note is despatched from southern Italy—life is hard.

One of the great contributions to jurisprudence by Lord Denning was his judgment in *Jarvis v Swans Tours Ltd* [1973] QB 233. The claimant was a solicitor working for the local authority in Barking. He decided to take his one fortnight's holiday of the year in Switzerland and booked with the defendant, having studied their brochure. He paid his £63.45 to cover Christmas and the New Year, and off he set. It was miserable. A promised 'house party' atmosphere in week two did not materialise, for he was the solitary guest. The Yodeler evening took the form of a local workman in his overalls belting out four numbers and legging it. The promised Swiss cakes were substituted for a bag of crisps.

Being a fine solicitor, Mr Jarvis sued and was awarded half the cost of his holiday. He successfully appealed quantum and recovered near double his outlay. In argument, Lord Justice Edmund Davies gave a somewhat more rarefied example of someone who could only get to Glyndbourne on one evening and booking a car which failed to materialise. Damages should address disappointment and not be confined to the ticket price. I note that Swan Tours had form, having been dragged before the courts in 1951 for misdescribing another exotic break.

## Fun & claims

After a flurry of travel sickness claims a few years ago, a protocol for such cases was introduced. The Hughes family took a trip with Jet2holidays. Upon their return, four members of the family claimed to have been afflicted by stomach cramps, projectile diarrhoea and other symptoms not fit to mention in this journal. Statements

in support were furnished pursuant to the protocol. Insurers are not the soft touch some think them to be. Scrutiny of social media—what else?—established that the clan had in fact enjoyed a happy, healthy holiday. When confronted, the claims were hastily withdrawn. Smelling blood, the insurer sought permission to bring proceedings for contempt of court pursuant to CPR 81. The Court of Appeal held that it was irrelevant that formal proceedings were never commenced. Protocols are today part and parcel of 'litigation architecture': *Jet2holidays Ltd v Hughes and another* [2019] EWCA Civ 1858, [2019] All ER (D) 66 (Nov). An individual found guilty of civil contempt faces up to two years imprisonment as well as a fine and costs, both without limit.

Bott & Co Solicitors blazed a trail in the niche sector of airline delay claims. A substantial investment was made in technology which facilitated the identification of valid claims. Dare I suggest that in any other area of commerce, an enterprise which made money out of providing a service for which there was a great demand would be lauded? Alas because it was a law firm, some sniffed and indeed denied that any legal service was being supplied. Thankfully, a majority of the Supreme Court saw sense and acknowledged the reality in *Bott & Co Solicitors Ltd v Ryanair DAC* [2022] UKSC 8, [2022] All ER (D) 54 (Mar). It is a racing certainty that the summer of 2022 will be a bumper one for the firm. Shooting fish in a barrel might be an apposite analogy.

## Location location location

Here are a handful of hotels that I adore. Barcelona is a popular destination and is heaving with dramatic hotels. The Grand Central (pictured) is housed in a solid, silent

building close to the old cathedral in the Gothic Quarter. All rooms are spacious and elegant. What makes this stand out is the infinity pool on the roof. Suffice to say that the Barcelona Tourist Office uses a picture of it on the front cover of their city guide.

I was in Venice in May. The Hotel A La Commedia has everything going for it. It is located around the corner from the Rialto Bridge which has several waterbus stops, including Services 1 and 2 which go to the railway station. Take the 2 because it runs non-stop. Set back one block from the bustling waterfront, the hotel is silent. It has a roof terrace with bar and one can sunbathe or read in the middle of the day when it does get hectic. There is even a branch of the Co-op nearby which sells essentials at sensible prices.

Turin is a gem. It is beautiful, and was the first capital of Italy after unification. Adam Creme, who as UNISON legal officer destroyed the employment tribunal fees regime (*R (on the application of Unison) v Lord Chancellor* [2017] UKSC 51, [2017] All ER (D) 174 (Jul)) shares my love of the Turin Palace Hotel. It is excellent value, and the rate includes the best breakfast choice that I have ever encountered in Italy. Suffice to say that the buffet includes a chocolate selection, as well as everything you could think of and more besides. Housekeeping standards are so high that a supervisor checks every room after the cleaning staff leave.

Do rest well, because on your return we have the new disclosure rules coming into force on 1 October, and Sir Geoffrey Vos MR has a reform agenda as long as a Heathrow check-in queue. Bon voyage!

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