

Topping out ceremony at the 2012 Sailing Village



Nockolds Commercial Property Solicitor, Bilyana Munic joined Olympian and world record breaking triple jumper Jonathan

Edwards to celebrate an 'important milestone on the journey to London 2012' on Portland, Dorset.

Bilyana Munic works for Zero C Limited as their only Commercial Property Solicitor, and was instrumental in the development of the 77 residential houses in Portland, which were subsequently developed for temporary use as the Sailing Village for the athletes and officials next year.



Mr Edwards, who is the athletes' representative on the LOCOG board, said: "The original plan was to put the sailors on a cruise ship, which wasn't too well received."

"Various schemes came and went and then this came up. It's a beautiful synergy because it would have happened anyway but due to the Olympics and Paralympics it's been accelerated and brought forward."

The 45-year-old British star, who claimed international

glory as Olympic, Commonwealth, European and World champion, unveiled a commemorative stone at the £13million Officers Field development to declare the major structural work complete.

Over the next four months the developer Zero C will complete the internal fit out of the houses and the site's landscaping, prior to the handover to the London Organising Committee of the Olympic and Paralympic Games (LOCOG) in January. Nockolds Plot Sales team will be working for Zero C in the sale of all the plots in the village.



Bilyana Munic
Solicitor

Commercial
Property

"Bilyana has acted for Zero c for many years and it has been a pleasure to work with her and have her legal assistance during this once-in-a-lifetime Olympic project. I use Bilyana and the team because they are highly professional, reliable and provide a personal service that takes the legal pressure off the developer"

Kim Slowe, Managing Director Zero C Developments

Bilyana Munic is a Solicitor within the Commercial Property Team, to discuss any of your commercial property concerns or issues please contact Bilyana on bzm@nockolds.co.uk or (01279) 712520.

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Autumn
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Programme



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Means Business

Employing agency workers: the changes facing employers and agencies



Darren Hayward
Managing Partner
Employment Team

The Agency Workers Regulations due to come into force on 1 October 2011 will give unprecedented new rights to agency workers.

Agency Workers will be entitled to 'the same basic working and employment conditions' as permanent staff after a 'qualifying period' of 12 weeks.

What are 'basic working and employment conditions'?

These conditions refer to pay, working time, night work and annual leave. After 12 weeks the worker will be entitled, with limited exceptions, to 'equal treatment' with respect to these conditions as comparable permanent staff.

Are these rights from the first day of an assignment?

No, to qualify for these rights a worker must work in the 'same role' with the same hirer for 12 continuous calendar weeks. 'A 'week' is any part of the week therefore the worker need only work 1 day each week to qualify.

The qualifying period may be achieved if a worker works for 6 weeks for the hirer through one agency and for a further 6 weeks for the same hirer through another agency.

Workers who sign on at a number of agencies, working for a number of hirers on different days, may qualify for separate qualifying periods with each hirer.

Does the worker have any other rights?

Yes, all workers are entitled to use the hirers facilities and amenities provided for permanent staff and have the right to be informed of vacancies at the hirer. These rights can only be refused if they can be objectively justified.

The worker also has the protection of discrimination legislation.

What happens if there is a break in an assignment?

In certain circumstances an assignment will be treated as

'continuous' even if there has been a 'break'. The Regulations contain 'anti-avoidance' provisions to prevent hirers and agencies avoiding the 12 week continuous service requirement.

Are there rights to certain information?

The Regulations give workers the right to information relating to the hirers 'basic working and employment conditions' and protection from detrimental treatment should they exercise this right.

What does this mean for agencies and hirers?

Records will need to be kept in order to identify when a worker qualifies for equal treatment and a proactive approach will be required in respect of provision of information to the worker.

Both the agency and hirer are potentially liable for non-compliance and should a successful claim be brought in the Employment Tribunal the award made by the Tribunal is uncapped.

Darren Hayward, Managing Partner, heads up Nockolds Employment Team. For more information on the latest changes to Employment Law or to discuss any specific matters please contact Darren on dmh@nockolds.co.uk or (01279) 712549.

Quick Read:

1. From October 1st Agency workers will have the same basic working and employment conditions as permanent employees after a qualifying period of 12 weeks.
2. To qualify for these rights the worker must be in the SAME ROLE for 12 continuous weeks.
3. The worker also has the same protection of discrimination legislation .
4. Records must be kept to identify when the worker qualifies for equal treatment.
5. Both Agency and Hirer are potentially liable.



Nockolds News



Erin Duffy
Solicitor
Dispute Resolution

Manage your debtors

Cash flow management and debt recovery has become a major focus for many businesses during the recent downturn in the economy.

The need to maintain positive cash flow has forced many businesses to look at placing more emphasis on collecting ageing debts. However, most businesses do not have the time or resources necessary to take on dealing with slow paying and non-paying customers as this is a distraction from the day to day running of the business which naturally remains a priority in a tough economic climate.

At Nockolds LLP we offer businesses such as yours a dedicated, fixed fee programme of debt recovery solutions.

Our client's often find that one simple 'Letter Before Action' sent from a solicitor to a debtor will provoke payment without any further action required. Having a solicitor acting on your behalf signifies to a debtor that you are serious about recovering the debt and will not just write it off.

Where further action is required to recover the debt we can advise you as to the most appropriate course of action and take those steps on your behalf. We are also able to advise you on enforcing a Judgment or Statutory Demand against a debtor to ensure you stand the best chance of recovering payment as swiftly and effectively as possible. Furthermore, we take a commercially sensible approach and will therefore advise you where it appears a debtor may be insolvent and it is unlikely recovery will be successful. We understand that there is no point in throwing your good money after bad!

Don't let bad debts bring your business down... talk to Nockolds LLP's Debt Recovery team today.

Erin Duffy, is a Solicitor within the Dispute Resolution Team, specialising in Debt Recovery. For further information or to discuss your concerns please contact Erin on eduffy@nockolds.co.uk or (01279) 712543.

Successful recovery of £5,000

One particular client we recently acted for in recovering payment in full from a debtor of nearly £5,000 wrote to us on conclusion of his case stating:

“ Given the problems that our very difficult client created I am most grateful for your advice, efforts and assistance in bringing this matter to a most satisfactory conclusion without which we would have struggled to recover the debt. While I hope we do not have too many other similar situations in the future your office will be the first port of call in such eventualities! ”

Focus on ...International Team

Good News for businesses seeking to reclaim debts from abroad?



Alfonso Valero
Solicitor & Spanish
Abogado
International Team

Over a million small businesses have problems with cross border debts and lose some €600 million a year. However this is all set to change with the publication of a new draft regulation to introduce pan-European bank account freezing orders.

Typically businesses lose out because it has been too difficult to pursue bad debts through the courts of other countries. Judgements (decisions) of a court in one member state can not be enforced against a bank account in another member state (at least where the judgement was granted ex parte ie: without notice).

EU Justice Commissioner Viviane Reding says cross-border debt recovery is "a weakness of our single market which we must remedy swiftly and energetically!"

The new European Account Preservation Orders (EAPO) will permit businesses to use an ex-parte court hearing in one member state to obtain an order which will immediately freeze the alleged debtor's accounts in every other member state.

The defendant will not be notified of the application or be heard prior to the issue of the EAPO, unless the claimant requires otherwise.

As with freezing orders in the English courts, the first time the defendant will be aware of the EAPO will be when his current accounts are frozen.

In addition where the applicant may not know the account details of the defendant, he may request that information in the Order. This clearly involves serious confidential information and the banks need to disclose it at the request of the court – sometimes of another country.

Should the regulation be approved in its current form, and

should the UK accept to be bound by it, it will enhance the tools for businesses recovering international debt. If used wisely, claimants will be able to secure or guarantee from the outset the recovery of the monies pursued.

On the other hand, it takes another step towards the unified judicial territory which must accompany the development of commercial relations within the EU.

Alfonso Valero is a qualified Solicitor and Spanish Abogado who specialises in International matters and Sports Law. To speak more specifically about your own debtors abroad or any other international matter contact Alfonso on avalero@nockolds.co.uk or (01279) 712405.



Visit us at Stand 20 at
Bishop's Stortford Means Business
October 19th from 10am at the
Rhodes Centre.

Bishop's Stortford Means Business provides a unique opportunity to speak to the leading suppliers of products and services in the area as well as attend informative and relevant Business Seminars.

Darren Hayward, Managing Partner at Nockolds LLP and Peter Warren, Director at Bird Luckin Accountants, are providing a seminar on the financial and legal issues surrounding being self-employed. For more Information or to book your space contact Jackie Downing at jdowning@nockolds.co.uk

Human Resource Forum: Company Cars

- making sure your paperwork is up to date

Motoring News – Employers who have drivers - Make sure your paperwork is in order (or risk being fined ...a lot)



For Employers that have company cars it is time consuming (and therefore costly) when a request is made by the police to identify a company driver when a traffic offence is committed by

an employee using a car registered to the business.

Directors or Company Secretaries have 28 days to inform the police of who was driving the identified car registered to the business or risk prosecution once a request is made. If the correct form is not completed properly then businesses can expect court action which can mean a fine and costs upon conviction (and solicitor's fees on top).

It is often the case that employees suffer from temporary amnesia when a request is made from employers for the driver of the company vehicle to come forward and accept responsibility for an offence.

Pete Dodd, Partner of the Motoring team advises employers to:

“Have a robust administration system (with a paper trail) that makes sure that you know who is driving one of your vehicles at all times. Even if it is the simple “sign out” and pick up the keys and “sign in” when dropping off the company vehicle.”

The reason for this advice is that the law is not on the employers side (no surprises here). It is not good enough to state on the form to be returned to the police that you have made enquiries and you cannot identify the driver.

A company will be guilty as ‘body corporate’ of an offence and that means writing a cheque from the company account. However if you prove to the court that the business has been diligent in keeping records of drivers then there is a defence in law and that can mean an acquittal if there is court action. As always the advice is simple – “be proactive rather than reactive”.

Pete Dodd, Partner, is a specialist in Road Traffic and Crime. For more information on protecting your business from financial penalties or any other Road Traffic matter or to organise a Health Check, please contact Pete Dodd on (01279) 712573 or by email to pd@nockolds.co.uk



Pete Dodd
Partner
Road Traffic & Crime

Growing your business in uncertain times.

When Thorntons announced the closure of up to 180 shops it seemed as though the long standing high street brand would disappear forever. However they have recently announced that they hope to expand their business using franchise opportunities and that all of the stores to be closed were owned or managed by the business themselves.

Franchising is becoming an increasingly popular business model in the UK. The number of franchise systems operating in the UK in 2010 was 897, a 15% increase from 2006. The total turnover from this type of business rose to £12.4 billion in 2010, again representing a 15% increase for the same period.

But what is franchising and why are more businesses using this option as means to grow?

A franchise occurs when the owner of a business (franchisor) grants a licence to another person or business (franchisee) to trade under their name selling the franchisor's products or services.

The most common type of franchise is a business format franchise. Fast food restaurants are an example of this such as McDonalds. The other types of franchises are product franchises (i.e. Thorntons) and manufacturing franchises (i.e. Coca-Cola).

The franchisee is then required to pay an initial fee to the franchisor plus a percentage of the sales revenue. They may also be required to pay further fees for marketing, training and possibly rent.

The Franchise Agreement governs the relationship between franchisee and franchisor providing protection for the franchisor and governs how the franchisee can trade. With potentially large sums of money being invested it is vital that both parties obtain legal advice before entering into a Franchise Agreement



Sarah Miles
Solicitor
Commercial Team

Sarah Miles, is a Commercial Solicitor and manages Nockolds Outsourced Legal Team. For

Advantages:

- Less likely to fail as the business is based on an existing product or service with a proven track record .
- Support and training available from franchisor.
- Benefit from any advertising or promotion made by the franchisor.
- Increased purchasing power as relationships with suppliers are already established .
- Existing brand names and trade marks can be used.
- Financing the business can be easier as banks may be more inclined to lend money to buy a franchise with a good reputation.

Disadvantages:

- Costs can be high, initial fee plus royalties and possibly other fees for advertising and training.
- The franchise agreement will usually include restrictions on how you can run the business.
- Local goodwill may be transferred to the franchisor at the end of the franchise period.

Part 1: Business and Divorce - Valuations

Lynn Cowley, Partner at Nockolds and specialist matrimonial solicitor explains in a two part article the implications of divorce on your business.

A number of high profile divorce cases grabbed the media and the public's attention in recent years, Sir Paul McCartney and Heather Mills being the most prominent. In some cases it was the couple's celebrity's status that was the focus but in others it was the high profile settlements that made the headlines.

In 2004, Premiership footballer Ray Parlour was famously ordered to pay his wife 37% of his earnings for four years, and in 2006, a City fund manager, Alan Miller, was ordered to pay £5 million to his wife of less than three years.

Although these cases are unusual due to the sums of money involved, it tells us about the current state of divorce law in England & Wales, and what the implications are for business people.

In this article, Lynn Cowley, Partner at Nockolds LLP Solicitors and specialist matrimonial solicitor outlines the key considerations for business owners who are going through the divorce process.

Finding out how much the family assets are worth is a crucial part of financial disclosure. Knowing how much is "in the pot" is the first step, before then dividing what there is.

If a business is involved in divorce, the question of valuation will arise early on. At the first appointment the court may well give directions.

Putting a value on your business:



Usually, the court appoints a single joint expert – a specialist accountant who will be appointed by both parties jointly to value the business. Other issues, like the ability

to raise money through the business, or future profitability, can also be considered.

Having a joint expert undoubtedly keeps the cost down. But in a difficult area like business valuations, it can be a subjective process. Given how variable valuations can be, it is easy for too much reliance to be placed upon

them – especially if the other spouse is being given hard cash or property of a similar value.

Getting separate accountants to value the business will need the permission of the court. This may be justified if:

- there is a substantial gap between what the accounts show, and the lifestyle involved;
- there are substantial fluctuations in the company figures, without adequate explanation;
- the business owner is not straightforward in supplying information and figures; or
- there are good grounds for believing that the business is being manipulated because of the divorce.

So what do you need to consider if you are a business owner going through a divorce?

- What do you want the court to do with the business? Do you want the business sold? Passed on to the next generation?
- Do you want the business interests to be shared, with shares being reallocated?
- Do you want to share income, and if so, would that be from dividend income, or from maintenance?
- Do you want to sell the business on retirement?

Each one of these approaches needs to be justified to the court. Much depends upon what type of business it is, and how it has built up. Much also depends upon your respective attitudes to trust and working together after divorce.

Lynn Cowley, Partner, is a specialist Matrimonial Solicitor. For more information on Matrimonial Affairs or any Family Matter please contact Lynn on lc@nockolds.co.uk or (01279) 712571.



Lynn Cowley
Partner
Family Team



Autumn Seminars at Nockolds

Please tick if you are interested and return it to us by fax or email and we will book your place.

First Name		Surname	
Email Address		Company Name	
Address			

Date	Time	Seminar Title	Speaker	Venue	Attend
11 October	4.00pm for 4.30pm start	An update on Employment Law developments over the past 12 months including a look at the new regulations on agency and temporary employees and the new law on retirement.	Darren Hayward	Park Inn, Southern Way, Harlow, Essex, CM18 7BA	
13 October	4.00pm for 4.30pm start	"Landlord and Tenant " update.	Michael Talbot	Great Hallingbury Manor, Tilekiln Green, Great Hallingbury, CM22 7TJ	
13 October	8.30am for 9.00am start	"Pension reform and what NEST means to your business ." With BBi Berns Brett.	Gary Smith	Park Inn, Southern Way, Harlow, Essex, CM18 7BA	
13 October	12.00pm for 12.30pm start	"Pension reform and what NEST means to your business." With BBi Berns Brett.	Gary Smith	Park Inn, Southern Way, Harlow, Essex, CM18 7BA	
13 October	4.30pm for 5.00pm start	"Pension reform and what NEST means to your business." With BBi Berns Brett.	Gary Smith	Park Inn, Southern Way, Harlow, Essex, CM18 7BA	
19 October	4.30pm for 5.00pm start	"Are you really self-employed?" Nockolds LLP and Bird Luckin will be talking about the complexities of self-employment from a legal and financial angle.	Darren Hayward and Peter Warren	Bishops Stortford Means Business Exhibition, Rhodes Centre, Bishop's Stortford, Herts CM23 3JG	
20 October	4.00pm for 4.30pm start	Pensions and Employment Law, with HSBC.	Gary Smith	Park Inn, Southern Way, Harlow, Essex, CM18 7BA	
25 October	4.00pm for 4.30pm start	An update on Employment Law developments over the past 12 months including a look at the new regulations on agency and temporary employees and the new law on retirement.	Darren Hayward	Ware Priory, High Street, Ware, Herts, SG12 9AL	
3 November	4.00pm for 4.30pm start	An update on Employment Law developments over the pas 12 months including a look at the new regulations on agency and temporary employees and the new law on retirement.	Darren Hayward	Weston Business Centre, Parsonage Road, Takeley, Essex , CM22 6PU	
10 November	4.00pm for 4.30pm start	"Risk Management– Keep your employee liability and motor premiums down"	Ivan Moody	Park Inn, Southern Way, Harlow, Essex, CM18 7BA	
24 November	4.00pm for 4.30pm start	Business growth in uncertain times - growing your business through franchising hear first hand experience from Vernon Brown, Pitman Training.	Sarah Miles and Vernon Brown	Great Hallingbury Manor, Tilekiln Green, Great Hallingbury, CM22 7TJ	