

How The Lawyer Saved Christmas

An (almost) True Story

Once upon a time one December a shop was full of Christmas cheer, toys and Santa tree decorations.

But one day the big nasty council man came in (Boo!), picked up Santa and declared "Christmas is cancelled, this is a dangerous toy! It's not safe for children. You must not sell them!"

The poor shop owner didn't know what to do. (Ah!) He didn't want to cancel Christmas in his shop and remove all the Santas. It would cost him so much money and his business might go bankrupt.

So, he called his lawyer, Richard Carlson at MCP and said "What can I do? Please help me."

Richard had a good idea to save Christmas. He took the council to court and spoke before the judge. He told the judge that Santa was a decoration, not a toy.

It also had a label on it saying "Not suitable for children under 36 months." He explained Santa was never meant to be played with by young children and so couldn't be considered illegal. Santa's job was to deliver toys, not be one, he added. (Ha! ha!).

The judge listened and then agreed with Richard that decorations were not toys and therefore could be sold. (Hurrah!) Christmas was saved! (Hurrah!) The shop would not go bankrupt! (Hurrah!) Richard had saved Christmas and everyone would live happily ever after! (Hurrah!) And as Santa stepped from the court:...

"He sprang to his sleigh,
to his team gave a whistle,
and away they all flew
like the down of a thistle.
But I heard him exclaim,
ere he drove out of sight,
Happy Christmas to all,
and to all a good night"



So now everyone knows where the name "Santa's Little Helper" really came from!

For more information contact
richard.carlson@mcp-law.co.uk
01945 428010

Appeal Dismissed

The House of Lords has dismissed an appeal that compensation should be paid to victims who have developed pleural plaques i.e. scarring of the lungs, an asbestos related disease.

The decision brings to an end an established right to compensation which has existed for over 20 years.

This compensation had been available for sufferers of pleural plaques caused by workers being exposed to asbestos due to the negligence of their employers.

Geraldine Kerrison, head of the Industrial Disease Department notes:

"The outcome has resulted in a substantial windfall for the insurance industry and left local victims with no form of recompense.

"This is despite medical experts recognising that pleural plaques are a sign of irreversible damage to the lungs caused by a history of exposure to asbestos which carries with it an increased risk of malignant disease such as lung cancer or mesothelioma."

Geraldine is currently having discussions with local Respiratory Consultants to set up an Asbestos Support Group in East Anglia.

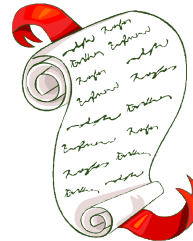
For more information contact
geraldine.kerrison@mcp-law.co.uk, 01553 817681

CONTENTS:	2. Corporate Manslaughter, Inheritance Tax, Unfair Selling Practices
	3. Debt Collection, HIPs
	4. Divorce & The Family Business, Staff News

Changes To Inheritance Tax

There are two rates and bands of inheritance tax (IHT). The first band is £1- £300,000 where IHT is payable at 0%. This is known as the Nil Rate Band and basically means that you do not pay any IHT. The second band is anything over £300,001 whereby IHT is payable at 40%.

Previously married couples or civil partners could leave as much as they wished to one another without facing a tax bill, but when the surviving partner died the estate faced a tax charge of 40% on everything above £300,000.



However, from the 9th October 2007 spouses and civil partners are able to transfer any Nil Rate Band unused on their death to their surviving spouse or civil partner. The new rules are retrospective and will therefore benefit those whose spouse or civil partner died before the 9th October 2007.

Due to these new changes there will be no need for spouses to incorporate a Nil Rate Band trust into their Wills as long as the combined estates do not exceed double the nil rate band, i.e. currently £600,000.

Many people may already have Nil Rate Band Trusts in their Wills. While many such Wills may still be appropriate, we would thoroughly recommend that Wills of this sort be reviewed.

For more information contact
simon.scott@mcp-law.co.uk, 01553 817671

New Corporate Manslaughter & Corporate Homicide Act

The Corporate Manslaughter and Corporate Homicide Act 2007 was made law on 26 July 2007 and comes into force on 6 April 2008.

The Act deals not only with private companies but also partnerships, trade unions, government bodies and other non-commercial organisations.

It deals with gross negligence by an organisation leading to a person's death. Organisations have a duty to take reasonable care for a person's safety.

In order to be found guilty methods in which activities are organised must constitute a gross breach of this duty and lead to a death. It must then be shown that the failure was substantially the fault of senior management.

The gross breach of duty would be a failure to comply with Health & Safety regulations and would also involve the severity of this failure and the likelihood of the risk of death from the failure.

The organisation could then be given an unlimited fine and specific tasks to remedy their faults.

It should be noted that there is no penalty specifically against directors or other individuals.

The law is aimed at those who ignore Health & Safety regulations and should not affect those who take reasonable care.

MCP is able to advise on Health & Safety regulations and make sure that you are not putting your employees, visitors or business at risk.

For more information contact
richard.carlson@mcp-law.co.uk, 01945 428010



MCP are now proud sponsors of the Peterborough Speedway.

Unfair Selling Practices

Further protection for consumers from unfair selling practices is due to be introduced in April 2008. This should help to reduce the litany of complaints of sharp practice that abound in some areas of trades. The new law applies only to business dealings with consumers, not dealings with other businesses and includes the following:

- Running a promotion or prize draw in which no prizes are awarded
- Advertising aimed at children which attempts to get them to persuade their parents or other adults to buy something
- Refusing to leave someone's house when asked (a common 'high-pressure' technique)
- Persistently soliciting for business by fax, telephone, email etc.
- Falsely stating that the produce will be available only for a limited period of time

If you have bought something after being pressurised to do so or the product has not met the claims made for it, you may be protected by consumer law. Take advice quickly. In some cases, the right to cancel an agreement (for example timeshare and insurance purchases) is only available for a limited period of time.

For more information contact
sarah.adlam@mcp-law.co.uk, 01733 865885

A Beginner's Guide To Debt Collection

If a business cannot recover a debt from a customer after the normal credit control procedures are exhausted then it will need to consider taking further action to recover the sum due. There are a variety of methods available to do this, depending on the size of the debt and the cost (both financial and time) involved.

Debts Under £5000

The 'small claims track' can be used for debts under £5000. This is a relatively simple process and does not normally require legal representation, although professional advice is useful regarding the preparation of evidence.

Debts Over £5000

Debts exceeding £5000 are pursued in court with the procedure chosen depending on the size of the claim. The court will issue a summons to the debtor. If the debtor does not respond then a judgement in default can be obtained, which requires the debtor to make payment without the merits of the case being considered.

If the debtor contests the claim the court can decide if the debtor has any legal basis for refusing payment. If the debtor admits the debt, no court hearing is necessary and enforcement action can be taken.

Finally

It is usually best to seek professional advice when dealing with any form of debt collection, especially if it is contested.

For more information contact
ben.dures@mcp-law.co.uk, 01842 756104



Staff in Thetford took part in the town's Dragon Boat Race and came sixth.

URGENT HIPS NEWS

HIPs will be required for 1 and 2 bedroom properties in England and Wales from 14th December 2007.

This extends the current use of HIPs and means they will be needed for almost all residential properties.

For more information contact:
hips@mcp-law.co.uk, 01842 756130

HIPs: Did You Know...



M C P offers several different types of HIP packages to suit your needs.

As a local provider, we have an added flexibility not found within national HIP providers. This allows us to fit around your needs.

MCP provides a unique "No Sale No Fee" HIP package not found with other providers.

In respect of both the HIP and the conveyancing, should the matter not complete NO charge will be made for the cancelled work.

MCP has improved our system of communication between our conveyancing departments.

The conveyancing brought to us through the HIPs is distributed between the various MCP offices in order to ensure that each client receives a more efficient, local service. This has required us to rethink our methods of communication and to develop new systems to meet these requirements.

MCP offers a substantial discount for our HIP packages if you also use us for conveyancing.

Not only is this far more cost effective, but it also makes selling your property quicker and easier as we already have all the information we need to act in your conveyancing. This is an added advantage of using a Solicitors firm to produce your HIP as opposed to a non-legal HIP provider.

MCP uses local providers to create your HIP.

We have a broad range of Domestic Energy Assessors and Estate Agents to suit you and your conveyancing needs, giving you added flexibility.

MCP has successfully completed in November our 70th HIP since they came into force in August.

During this short time we have dealt with a wide range of properties and we are now well-practiced enough to deal with any complication that may arise.

As a law firm, MCP is in a better position to give you comprehensive advice on your HIP than a non-legal provider is.

As Solicitors we are far better equipped to deal with issues that might arise when compiling your HIP. Unlike non-legal providers, we do not have to refer such matters to outside help. This therefore reduces the cost for you.

MCP is continually expanding our list of Estate Agents who use MCP as their number one HIP provider.

We initially began to produce our HIPs slowly and with a sense of caution. However, due to our continued success, we now feel confident to increase the number of Estate Agents and Domestic Energy Assessors that we employ in order to expand the area that we cover.

For more information contact
hips@mcp-law.co.uk, 01842 756130

Divorce & The Family Business

Divorce is a difficult enough situation for most people, but when it is complicated with the addition of a family business things can get even harder.

In the majority of divorces the court will try to split assets 50/50. However, many people forget that the business they own is considered to be an asset.

Theoretically this could mean that a judge could demand the business be sold or split between the parties. However, generally courts will not want to destroy small businesses so they will try to find other ways around this.

In order to keep your business you may have to pay maintenance, raise costs on your business or allow your ex-partner to keep the family home. There may also be issues involving a company pension and things will get even more difficult again if children are involved.

These situations vary considerably from case to case and can be extremely complex. If the situation arises it is essential that you speak to a lawyer with both family law and business law experience such as ourselves in order to make sure that all possibilities are covered.

For more information contact
wendy.oreilly@mcp-law.co.uk, 01733 865883

Head of Accounts Retires

MCP Partners and staff recently held a reception at Elme Hall Wisbech to mark the retirement of the Head of Accounts Department, John Crosson.

John had been in charge of the Department for nearly ten years and the photograph shows MCP's Senior Partner, David Rutter, making a presentation to John (left).



Taking over from John is Tracey Lowe. Tracey started at the firm in 1986 as work experience and through many years of outstanding service has finally worked her way up to Head of Accounts.

All at Metcalfe Copeman & Pettefar would like to wish both John and Tracey good luck for the future.

Staff News

Michael Ruck has been appointed a Higher Court Advocate for Criminal Proceedings



Emily Swales, Sarah Warby, Sarah Perkins, Sam Street and Claire Walker all passed their ILEX exams

Robert Colwell appeared in a recent edition of the Solicitor's Journal and moved office from Wisbech to King's Lynn



Paul Hendriks raised £114 on a sponsored bike race for The Norfolk Churches Trust and St Peter's Church, Little Ellingham

Andrew Davies raised over £1150 for projects in Uganda and spent his summer holiday building a school there

Jayne Stubbings was made Chair of the Friends of Elm Road Primary School

Aimee Marsh has been volunteering for the East Anglian Air Ambulance

King's Lynn staff opened the office to the public as part of the Heritage Open Days. Our office is one of the oldest buildings in King's Lynn.



New Staff

Anne Gould

Criminal Secretary, Wisbech

Karen Inns

Wills & Probate Secretary, Thetford

Gabriela Mihova

Commercial Property Secretary, Peterborough

Sue Pearson

Receptionist, King's Lynn

Sophie Pepper

Commercial Property Secretary, Peterborough

Jenny Setchfield

Conveyancer, Peterborough

Rachel Stevens

Trainee, Peterborough

Fran Tyler

Family Paralegal, Thetford

Data Protection: to enable us to send you this newsletter and, from time to time, other marketing communications which we believe you may find useful, we maintain your details on an electronic database. We will not pass your details to any other party for marketing purposes. If you do not wish us to use your details in this way please tick the box, enclose your details and return this newsletter to us so that we can remove you from our database.