

Bolt Burdon Commercial Enews – 29 September 2006

Don't Sign It!

We know that you are all wily commercial clients who wouldn't dream of signing any documents without first knowing what you were signing up to.....

As you also probably know a guarantee has to comply with certain legal requirements as set out in the Statute of Frauds 1677 to be enforceable. In general terms, the guarantee has to be in writing and signed and this ensures that a guarantee is not given on the basis of an informal communication.

A question arose in a recent court case as to whether a person could give a personal guarantee by an unsigned email. Perhaps surprisingly, the court decided that, in principal, an email was a sufficient written note that could amount to a guarantee although, in the case concerned, the email had not been signed.

Although the name of the sender of the email formed part of the email address, the court said that was not sufficient to amount to a 'signature'. Neither the individual's name or initials appeared anywhere in the email so it could not be said that it had actually been signed. However, the important point that has come out of this is that the court might have been prepared to uphold it as having been signed if there had been reference to the name of the individual in the email, or alternatively if he had written his name at the end of it. Scary stuff.....

Having just looked at the style of our own email addresses I am now off to discuss this with our IT department!

If you have any questions about this subject then please feel free to contact Marcella Cox on marcellacox@boltburdon.co.uk or Ryan Mowat on ryanmowat@boltburdon.co.uk or by telephone on 020 7288 4700 to the Commercial Litigation Department. For details of all the services we offer, please visit our website at www.boltburdon.co.uk

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