

## **The Dangers for Directors of Assuming Personal Liability – *Dream Doors* revisited**

In May of this year we reported on the High Court decision in *Dream Doors Limited v Lodgeford Homes Limited and Martin Lodge*. In that case the judge rejected claims by a franchisor that, because of the way he had signed the agreement, the director of the franchisee company was personally bound by its terms.

A link to this article can be found by clicking [here](#).

On 28 November 2012 the Court of Appeal heard an appeal from the franchisor.

Although the underlying substantive issues in the case have not been finally resolved (there will be a further High Court trial to determine this), the Court of Appeal overturned the original decision from May and found that the judge had erred in a number of respects.

In particular, the judge had ignored various pieces of relevant evidence when coming to his conclusion. There were various circumstances relating to negotiation and entry into the franchise agreement which indicated that it was the intention of the parties that the individual also be bound by the new agreement. These included, amongst other things, the fact that the new agreement was intended to replace an existing arrangement under which the individual concerned had acted as a guarantor.

The franchisor also introduced new evidence to support its argument that an error had been made in production of the new agreement, and that it had been intended that the director concerned would sign twice, once to bind the company, and once to bind himself.

The key issue arising from this case remains the same. It is essential for all parties concerned to ensure that when directors are signing documents, it is clear what capacity they are signing in. In this case the parties are still in dispute as to whether the director signed as an agent of the company only, to bind himself personally, or indeed both.

However, whilst this latest decision does not change the underlying practical lesson arising from the case, the new judgment puts a significant new slant on the facts of the case. It will be interesting to see how these matters are resolved when the case comes back to court.

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