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# BCR LAW REPORT Q2

This report highlights key proposals introduced in the States Assembly, legislation that has been recently passed, and important decisions made by courts and tribunals in Q2.



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## CONSULTATION LODGED: AMENDMENTS TO WILLS AND SUCCESSIONS (JERSEY) LAW 1993

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A consultation has been lodged on proposed amendments to the Wills and Successions (Jersey) Law 1993. If these amendments are adopted, it would change the existing rules in Jersey law that, in the same circumstances, the surviving spouse or civil partner is entitled to claim the life enjoyment of one third of all the immovable property (i.e. land or buildings on land) of the deceased. This is known as “dower”. The proposal is that the spouse or civil partner would not be entitled to claim the life enjoyment of one third of the fields (so would not, for example, be entitled to any money for renting out the fields) but would be entitled to live in the family home for the remainder of their life. This change is not, however, intended to remove the rights of a secured creditor to enforce their security if there is a default on a mortgage on the family home. The purpose of changing the scope of the rules on life enjoyment is to continue and, in some respects, enhance the existing protection of the surviving spouse or civil partner who does not inherit the home they lived in with the deceased. It is believed that this change will reflect the circumstances of the majority of spouses and civil partners in Jersey who are likely to own just one property that cannot be divided to enable a surviving spouse to enjoy one third of it. This change may reduce the scope for conflict to arise between the surviving spouse and other members of the family who inherit ownership of the deceased’s immovable property, including the family home.

# ROYAL COURT JUDGMENTS OF INTEREST ISSUED DURING QUARTER 2

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## HRCKY Limited v Hard Rock Limited [2024] JCA 069

KEY WORDS: Good Faith; Erruer; Misrepresentation;  
*Dol par reticence*; Fraud by silence



This is a long-standing dispute concerning a franchise agreement between a Jersey company (Hard Rock Limited) and a British Virgin Islands company (HRCKY Limited) to run a franchise in the Cayman Islands.

The main element of this dispute related to a counterclaim brought by HRCKY alleging that it had entered into the Franchise Agreement on the basis of misrepresentations.

At first instance, the Royal Court dismissed the counterclaims in its entirety. HRCKY sought to appeal this decision. The Court of Appeal dismissed the appeal in its entirety. Whilst the dismissal of this appeal does not expressly rule out the existence of *dol par reticence* as a matter of Jersey law.

[LINK TO FULL JUDGEMENT](#)

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## Representation of De Gruchy and the Parish of Trinity [2024] JRC082

KEY WORDS: Clameur de Haro; Land; Costs

This was an interesting case providing further guidance and commentary on the ancient customary law action of *Clameur de Haro*. This is the second case in almost three years that has considered this ancient customary law action. The analysis in this case centred on whether the Clameur could be raised despite there being a dispute as to who owned the land said to be suffering an *appert péril*.

In this case the raiser of the Clameur was held to have raised it incorrectly and the Cour then went on to assess whether they should pay the costs of the Defendants on either the standard basis or the indemnity basis.

[LINK TO FULL JUDGEMENT](#)

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## Representation of Johnson and Rosel Estates Limited [2024] JRC 074

KEY WORDS: Probate; Immovable property; Wills; disclaimer of interest

This is the second case to consider the act of disclaiming interests in immovable property in Jersey obtained by a will.

[LINK TO FULL JUDGEMENT](#)

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## Want v Minister for Infrastructure [2024] JRC083

KEY WORDS: Business Licence; DBS Checks;

This was an interesting case concerning the legal status and effect in Jersey of checks carried out by the Disclosure and Barring Service in the United Kingdom and how far the results of such checks may be taken into account in Jersey by public officials in relation to the grant or refusal of licences or permits.

[LINK TO FULL JUDGEMENT](#)

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## TRIBUNAL JUDGMENTS OF INTEREST ISSUED DURING THE QUARTER

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### **Goncalves v Voisin Department Store Limited and others [2023] TRE 191**

KEY WORDS: Discrimination; Strike Out; Time-limits



An interesting judgment analysing the time limits contained in the Discrimination (Jersey) Law 2013. This case also re-emphasises that the actions of an employer's agent can result in the employer being held vicariously liable for such conduct.

[LINK TO FULL JUDGEMENT](#)

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### **Angela Bonney v Gaudin & Co Limited [2023] TRE 213**

KEY WORDS: Employment; Redundancy; Pool of One

A Tribunal judgment analysing whether an employer's decision to make an employee redundant from a pool of one was a fair reason to dismiss. Ultimately in this case the Tribunal determined that the employer had engaged in a fair redundancy process.

[LINK TO FULL JUDGEMENT](#)

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### **Geoffrey Derouet v Quantum Building Supplies [2024] TRE 22**

Another interesting case from the Employment Tribunal on the question of prescription of claims before the Tribunal. The Tribunal concluded in this case that the claims were out of time and as such the Tribunal declared that it did not have jurisdiction to hear the claim

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## ABOUT THE AUTHOR



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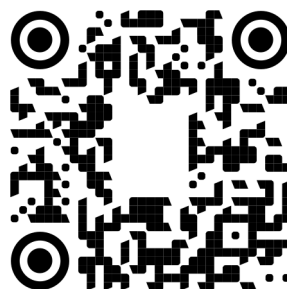
Ashley joined BCR Law in January 2019 and qualified as an Advocate with the firm in 2023.

Ashley specialises in Business Law, including matters relating to Employment Law, dealing with a broad range of both contentious and non-contentious matters focused on serving the local business community.

Ashley's particular areas of expertise include Construction, where he has a background of industry experience, employment, where he has significant experience in advising both employers and employees, and trust matters.

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