David Coon and Claudia Tobler Examine the Meaning of “Payment” in LME Litigation in New York Law Journal

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Selendy Gay partners David Coon and Claudia Tobler examine how courts are interpreting the meaning of “payment” in liability management exercise (LME) litigation in a new *New York Law Journal* article.

The article compares the decisions in *Serta* and *Del Monte Foods*, where courts applied substantially the same principles of contract interpretation but reached different conclusions about whether cashless exchanges constituted “payments” under the governing credit agreements.

“Interpretive uncertainty persists even among credit agreements that use superficially identical language,” David and Claudia write.

They explain that the decisions do not establish a universal rule for cashless exchanges. Rather, they illustrate how LME disputes can turn on differences in contractual language, transaction structure and courts’ application of established interpretive principles.

The article also considers the broader implications for LME litigation and credit agreement drafting. David and Claudia note that as parties continue to test language that once appeared routine, “no provision remains boilerplate.”

The full article is available in the *New York Law Journal*.

Attorneys

- David A. Coon
- Claudia R. Tobler

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