

"10 Things I Hate About You"

PIF Conference 2023


Robinson College, Cambridge

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The 10 Things...

- **Why won't anyone talk to me anymore?**
- **Is mediation still fit for purpose?**
- **Is Adjudication a credible alternative when no-one will do it?**
- **Not all claims are a try-on!**
- **Pre-action Protocol: purpose or pretence?**
- **Pre-action disclosure: the farce.**
- **Cost budgeting is increasing costs.**
- **Contributory Negligence in the real world.**
- **Part 18 Wars.**
- **Standstill v Limitation.**



**Why won't anyone talk
to me anymore?**

M e d i a t i o n



You will cease your pointless bickerings.

Is mediation still fit for purpose?

- **Are we mediating for the right reasons?**
- **Are we mediating at the right time?**
- **Are we forgetting the real purpose of a position statement?**
- **Are lawyers interfering too much with what is supposed to be a commercial negotiation between the parties?**
- **Are parties always coming with appropriate authority?**
- **Are we being realistic with parties in advance about what the parameters of a negotiated settlement are likely to be?**
- **Same old, same old...**
- **Alternatives?**

Not all claims are a try on...



Pre-Action: purpose or pretence?



Aims of the Protocol

2.2 The aims of the protocol are to enable parties to prospective claims to:

- (a) understand and properly identify the issues in dispute in the proposed claim and share information and relevant documents;
- (b) make informed decisions as to whether and how to proceed;
- (c) try to settle the dispute without proceedings or reduce the issues in dispute;
- (d) avoid unnecessary expense and keep down the costs of resolving the dispute; and
- (e) support the efficient management of proceedings where court proceedings cannot be avoided.

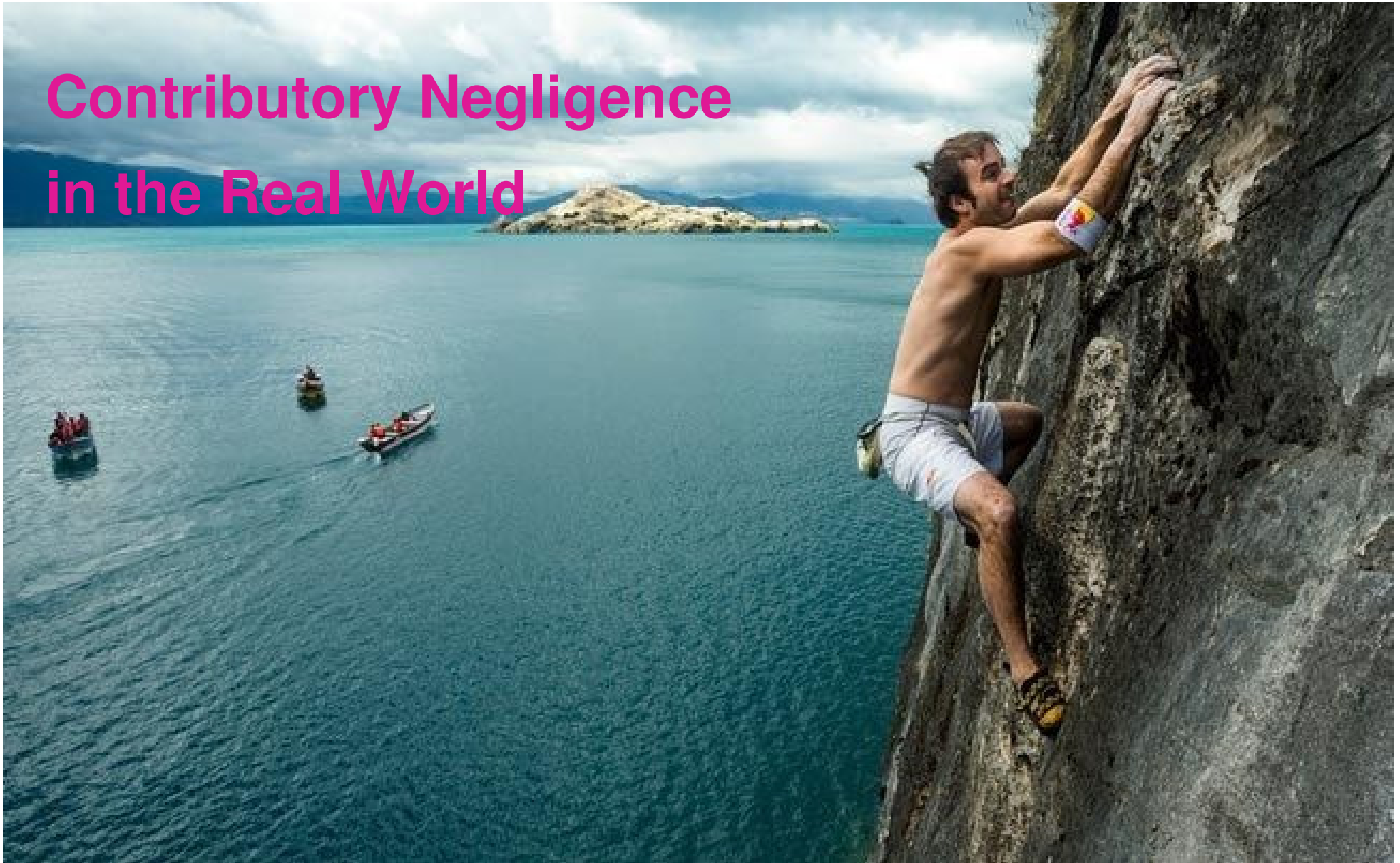


Pre-action Disclosure: a modern day farce

Cost budgeting is increasing costs....



Contributory Negligence in the Real World





Standstill v Limitation



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