



# Lawspeak...

Augustin & Bugg

www.augustinbugg.com

A monthly Legal English newsletter on contract and commercial matters

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## Bugg's Boilerplate

"The lawyers are stopping the fun!"

This sentiment is not infrequently expressed in business. It is sometimes uttered by sales personnel, engineers or business managers because the lawyers seem to be "slowing down" a contract by going over liability issues and potential risks. Whilst I can sympathise with the frustration, at the end of the day, that is a lawyer's job: to determine risk and liability potential.

If you really want to see the law stopping the fun, read this month's lead article on Boston and Christmas celebrations. But do not be dejected, on page 2, the indemnity template provides boilerplate protection to Santa and his helpers.

I wish you all a peaceful and relaxing Christmas time with family and friends and a productive and enjoyable New Year, and lots of fun!

Stuart Bugg

December, 2013

## Christmas Celebrations Illegal In Boston

Outlawing the celebration of Christmas sounds a little extreme, but it happened. The ban existed as law for only 22 years, but disapproval of the Christmas celebration took many more years to change. In fact, it wasn't until the mid-1800s that celebrating Christmas became fashionable in the Boston region.

The Puritans who immigrated to Massachusetts to build a new life had several reasons for disliking Christmas. First of all, it reminded them of the Church of England and the old-world customs, which they were trying to escape. Second, they didn't consider the holiday a truly religious day. December 25th wasn't selected as the birth date of Christ until several centuries after his death. Third, the holiday celebration usually included drinking, feasting, and playing games - all things the Puritans frowned upon. One such tradition, "wassailing", occasionally turned violent. The custom entailed people of a lower economic class visiting wealthier community members and begging, or demanding, food and drink in return for toasts to their hosts' health. If a host refused, there was the threat of retribution. Although rare, there were cases of wassailing in early New England. Fourth, the British had been applying pressure on the Puritans to conform to English customs. The ban was probably as much a political choice as it was a religious one for many.

*"For preventing disorders, arising in several places within this jurisdiction by reason of some still observing such festivals as were superstitiously kept in other communities, to the great dishonor of God and offense of others: it is therefore ordered by this court and the authority thereof that whosoever shall be found observing any such day as Christmas or the like, either by forbearing of labor, feasting, or any other way, upon any such account as aforesaid, every such person so offending shall pay for every such offence five shilling as a fine to the county."*

General Court, Massachusetts Bay Colony, May 11, 1659

Report taken from the Massachusetts Travel Journal at <http://masstraveljournal.com/places/boston-cambridge/when-christmas-was-banned-boston>

## Indemnity Boilerplate

At this time of the year **Lawspeak...** recommends that you may want to consider using the new best practice recommendation for limiting risk:

*Santa Clause and his directors, officers, employees, agents, helpers, reindeers, associates, assigns or successors (hereinafter referred to collectively as "SC") shall be indemnified and held harmless in relation to any costs, fines, charges, taxes or expenses directly or indirectly related to any loss or damage caused by any collision, impact or other interaction between any property of SC (whether airborne or not) and any other property, person or object as well as any damage or loss resulting to any third party, object, animal or IP rights of Coca-Cola as a result of the acts or omissions of SC for the period commencing on no later than on 24<sup>th</sup> December and ending on no later than 25<sup>th</sup> December of each year (inclusive) provided that notwithstanding any law to the contrary Santa Clause is acting as a logistics enterprise at the relevant time. Such indemnification is hereby expressly agreed to apply also to any cases of death, personal injury or injury to health or gross negligence within the territory or respective airspace of any civil law jurisdiction and to any death, personal injury or fraud or fraudulent misrepresentation within the territory or respective airspace of any common law jurisdiction or any other place. Notwithstanding the above, and in total disregard of the applicable mandatory provisions of law, nothing in this clause shall be construed to be subject to any exemption, exclusion or limitation of liability for any indirect or consequential loss or damage such as but not limited to loss of antlers, loss of presents, damage to chimneys, dry cleaning bills or broken roof tiles. Furthermore, the indemnifying party undertakes that it shall ensure that correct and proper facilities for the fly over, landing and access of SC are available at all times within the said period. For the avoidance of doubt, SC or any SC-related act or omission, or event or omission resulting therefrom shall not be deemed to be a force majeure event for the purposes of this agreement.*

Stuart G. Bugg practises law in Nürnberg, Germany with the law firm of Augustin & Bugg. He is specialised in contract and commercial law and is also qualified as a barrister and solicitor (New Zealand) and solicitor (England & Wales). Stuart has been actively involved in legal and communication training for both lawyers and non-lawyers for many years and has written several books and articles on the subjects of contract law and Legal English. ▽



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## Nürnberg Seminar Workshops with Stuart Bugg

Places (participants limited to 14 per seminar) are still available in the following seminars:

1. **Masterclass on Negotiations, Presentations and Meetings in English**  
24-25 January 2014  
Hotel Victoria Nürnberg
2. **Introduction to Working with Contracts in English**  
28 Feb.-1 March 2014  
Hotel Victoria Nürnberg
3. **Masterclass on Boilerplate Clauses in Contracts**  
11-12 April 2013  
Hotel Victoria Nürnberg

REGISTRATION FORMS etc.: [augustinbugg.com/en/we-do/seminars/](http://augustinbugg.com/en/we-do/seminars/)

For further information on the above seminars and workshops please contact us by telephone +49 (0) 911 945 8867 or by email [seminar@augustinbugg.com](mailto:seminar@augustinbugg.com) or see our homepage at [augustinbugg.com/en/we-do/seminars/](http://augustinbugg.com/en/we-do/seminars/) for further details and seminar programmes. ▽