**COMBAR North America Meeting 2019, New Orleans**

With support from the International Legal and Professional Development Grant Programme, I attended the Commercial Bar Association’s 2019 North America Meeting, at the Hotel Monteleone in New Orleans.

The purpose of the North America Meeting is to provide a forum for the exchange of ideas, on matters of both law and practice, between commercial lawyers from England, the USA, Canada, and the Caribbean. The first day featured four panels of speakers, on themes including ‘recent developments in commercial litigation’ and ‘interlocutory relief’. Within each panel, the speakers (usually two from England and Wales and two from North America) each gave a short presentation, followed by a general panel discussion prompted by questions from the floor.

Of particular interest were the sessions considering the different jurisdictions’ approaches to some essential questions of procedural law. Many of the English lawyers present were surprised to hear (from Peter Koski, of Covington & Burling, Washington DC) about certain decisions of both US and European courts on questions of legal professional privilege. Alex Potts QC (of Kennedy’s, Bermuda) gave a fascinating insight into ‘ingenious injunctions, implied undertakings, and contumelious conduct’ in the Bermudan courts. More light-hearted, but equally interesting, were the cautionary tales from both sides of the Atlantic under the intriguing title ‘Unusual things which can arise in commercial litigation’. Speakers discussed recent disputes over the collateral use of documents for overseas investigations (James Purchase, 4 Pump Court), handling the unexpected during witness evidence (Geoff Hall, McCarthy Tetrault, Toronto), and privacy issues in federal investigations (Megan Wold, Kirkland & Ellis LLP, Washington DC).

The second day of the conference was devoted to a discussion of factual witness evidence. This was a timely discussion, since the Commercial Court is (at the time of writing) engaged in a consultation on the value of witness statements and cross examination. Of particular benefit were presentations from two experts on the reliability of witness evidence. Prof. Martin Conway of City University, London, spoke about ‘memory and the law’, explaining his perhaps unsettling research indicating that many of the traditional indicators of reliability (confidence in one’s recollection/ clarity of detail) can often be indicators of well-meaning mis-remembering. Dr. Douglas Green gave a talk on ‘witness credibility’, drawing on his long experience of working with witnesses before and after trial. The second day closed with a debate, with practitioners from various jurisdictions arguing the motion ‘This House believes that cross-examination of factual witnesses merits its central place in the trial process in commercial cases’. The debate explored the potential alternatives to cross-examination in its current form, including the possibility for direct submissions on documentary evidence. At a time when this issue is very much in the spotlight, this was a thought-provoking and informative discussion.

The conference was not solely devoted to legal matters. Of equal importance was the chance to meet and talk to commercial lawyers from all jurisdictions represented. The first evening saw a boat cruise on board the famous ‘Creole Lady’, watching the subset over the Mississippi. It was a real privilege to be invited, on the second evening, to dine at the magnificent Fifth Circuit Court of Appeals building, hosted by Chief Judge Carl Stewart. After giving a brief introduction to the US court system and the work of the Fifth Circuit, Chief Judge Stewart gave participants a tour of the principal court room. When the court (occasionally) re-hears an appeal in plenary, all seventeen judges of the court are given the opportunity to question the advocate, who has just 30 minutes to present his or her case.

The North America meeting was a fantastic opportunity, both to learn about and debate issues of real interest and relevance, and to meet practitioners across the common-law world. I’m immensely grateful to the Young Barristers’ Committee of the Bar Council and to COMBAR for enabling me to attend.

**Aaron Taylor**

**Fountain Court Chambers**