



News

Appellate Spotlight: International Creditor Secures Favorable Eleventh Circuit Ruling in Case Involving Petition to Enforce \$8M in International Arbitration Awards Under The New York Convention

October 19, 2023

A Hinshaw legal team recently secured a favorable ruling from the U.S. Court of Appeals for the Eleventh Circuit on behalf of a Hong Kong-based creditor. Pursuant to the New York Convention, the creditor is seeking to confirm and enforce, in a Florida federal court, over \$8 million in international arbitral awards it obtained from the Hong Kong International Arbitration Centre.

In the district court proceedings, Hinshaw's legal team convinced the judge to reject a motion to dismiss filed by the respondents—the debtor, Paul Horn, last known to be living in Thailand, and the debtor's Florida-based lawyer, Craig T. Galle—who had argued that the Florida federal court did not have personal jurisdiction and/or subject matter jurisdiction over the suit to confirm the awards.

Significantly, the arbitrators found that Galle's voluntary participation in the arbitral proceedings concerning his authority to represent Horn in the arbitration opened him to liability under Hong Kong law for the costs of those proceedings when it was determined he did not prove his authority to represent Horn.

The district court held that the absence of a written arbitration agreement signed by Galle did not prevent enforcement of the award against him, which presently stands at about \$560,000, inclusive of interest, because his conduct in the arbitration constituted consent to the arbitration agreement. That ruling, along with an injunctive order, was appealed to the Eleventh Circuit.

Initially, a panel of the Eleventh Circuit had ruled it had pendent jurisdiction over the district court's otherwise unappealable order denying the motion to dismiss because the issue of subject matter jurisdiction over the award was "inextricably intertwined with the injunctive order." However, in its subsequent ruling on October 18, 2023, the Eleventh Circuit reversed that decision, holding "we do not have jurisdiction ... over the district court's dismissal order" because the doctrine of pendent appellate jurisdiction did not apply.

It held that the district court's subject matter jurisdiction over the creditor's claims is "neither inextricably intertwined with nor necessary to ensure meaningful review of Respondents' challenges to the district court's preliminary injunction." The Eleventh Circuit's decision means that Hinshaw can now proceed fully with getting the creditor's arbitration awards enforced pursuant to the New York Convention.

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The creditor is represented by Hinshaw attorneys Edward K. Lenci of New York City, and Rory Jurman, Jenelle La Chuisa, and James Wyman of Florida. Jonathan Crompton and Jason Carmichael of the Hong Kong office of Hinshaw's strategic alliance partner, Reynolds Porter Chamberlain LLP (RPC), represented the creditor in the underlying arbitration.

The case is *Noble Prestige Ltd. v. Horn et al.*, case number 9:20-cv-82357, in the U.S. District Court for the Southern District of Florida. On appeal, the case number is 22-11520.

Media Coverage

- *Global Arbitration Review*: "[Hong Kong funder's fight with conservator resumes in Florida](#)," November 2, 2023 (*subscription required*)
- *Law360*: "[Hong Kong Lender Looks to Restart Suit Over \\$8M Awards](#)," October 27, 2023 (*subscription required*)
- *Law360*: "[11th Circ. Orders Funds Unfrozen In Lender's Beef With Atty](#)," October 16, 2023 (*subscription required*)