

Florida Federal Court confirms \$40 million award on behalf of Hogan Lovells client SSK Ingeniería y Construcción S.A.C.

The United States District Court for the Southern District of Florida has confirmed a US\$40m Final Arbitral Award and Motion for Sanctions issued by the ICC International Court of Arbitration on behalf of Hogan Lovells client SSK Ingeniería y Construcción S.A.C. (SSK).

Client SSK, a Peruvian corporation, filed with the International Chamber of Commerce (ICC) a request for arbitration against Técnicas Reunidas de Talara S.A.C. (TRT), also a Peruvian corporation, in a matter involving a contractual dispute over a multi-million dollar construction project at an oil refinery in Peru owned by Petroperú. Petroperú had engaged TRT as the general contractor and TRT had subsequently subcontracted with SSK.

During the arbitration proceedings that followed, a partner and associate representing TRT moved to the law firm that also represented SSK. The partner and associate, Messrs. Cristian Conejero and Gianfranco Lotito, informed TRT of their move and TRT did not object before the final award was issued. Following the ICC Tribunal's Award of US\$40m to SSK, TRT filed a petition objecting to the moves of Messrs. Conejero and Lotito.

On October 12, 2021, Judge Cecilia M. Altonaga, Chief United States District Judge for the Southern District of Florida, issued an order denying TRT's petition to vacate the ICC

award, and granting the motion to dismiss submitted by SSK. In her 22-page decision confirming the ICC award, Judge Altonaga rejected TRT's contention that the decision by Messrs. Cristian Conejero and Gianfranco Lotito to switch firms during the pendency of an ICC arbitration amounted to a violation of the United States' most basic notions of morality and justice.

The District Court based its decision on two key findings. First, that TRT had failed to demonstrate that the decision by Messrs. Conejero and Lotito to switch firms had prejudiced TRT—a showing required when such prejudice is alleged only after a judgment or award is rendered. Second, that TRT had waived its right to object to any conflict created by Messrs. Conejero and Lotito by sitting on its rights for more than a year.

The Court concluded, "Petitioner may not keep a proverbial ace up its sleeve in case things go badly and wait until it received a final adverse ruling to state its concerns." In light of TRT's failure to make its case, the Court denied TRT's petition to vacate the ICC award and confirmed the ICC award.

The Hogan Lovells team representing SSK in federal district court in Florida was led by partner Daniel González and included law clerk Enrique Molina and paralegal Gladys Cata.