
Tenth Circuit Clarifies Standard for Establishing Personal Jurisdiction in Cases Enforcing Foreign Arbitration Awards

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Plaintiffs attempting to enforce foreign arbitration awards in U.S. courts against foreign defendants face numerous significant hurdles. Putting aside issues of whether the award itself is enforceable, plaintiffs usually must establish that the court has specific jurisdiction over the defendant. This means the plaintiffs' injuries must "arise out of or relate to" defendants' suit-related contacts with the forum. *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 472 (1985). In cases involving the enforcement of foreign arbitration awards, there has been an open question of what constitutes a "suit-related" contact for establishing specific jurisdiction: is it the defendant's contacts with the forum that arose during the course of the arbitration or the defendant's contacts with the forum in the underlying dispute that was the subject of the arbitration? If the former, U.S. courts effectively would be closed to plaintiffs seeking to enforce foreign arbitration awards against foreign defendants.

On August 7, 2020, in *Compania de Inversiones Mercantiles, S.A. v. Grupo Cementos de Chihuahua S.A.B. de C.V.*, No. 19-1151, 2020 WL 4743833 (10th Cir. 2020) ("*CIMSA*"), the United States Court of Appeals for the Tenth Circuit joined the Second, Third, Fourth, and Ninth Circuits in holding that courts must look to defendants' contacts with the forum that arose during the underlying dispute. If this trend continues, plaintiffs will have the ability to enforce foreign arbitration awards against foreign defendants in U.S. courts but only in limited circumstances where there is a sufficient connection between the underlying dispute and the forum.

Attorneys

- Joel Kurtzberg
- Adam S. Mintz