

International Arbitration & Litigation Newsletter



September 2019

Editors' Note

As 2019 speeds toward conclusion, we look back on the recent successes of GT's International Arbitration & Litigation Practice. The group had significant wins, was recognized for its leadership and achievements, and made noteworthy additions to the team, strengthening its ability to service clients engaged in complex international disputes.

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Notable Client Wins

Japan's largest electric utility avoids bulk of damages in \$700 million fuel contract dispute.

GT client Tokyo Electric Power Company Holdings, Inc. (TEPCO) **defeated** 94% of a \$700 million International Chamber of Commerce (ICC) claim over a long-term fuel supply contract brought by a subsidiary of Canadian mining conglomerate Cameco Corporation. TEPCO sought to terminate the contract on force majeure grounds. Shareholder **Thomas G. Allen** (Washington, D.C./Tokyo/Shanghai),

Associate **Andrew Van Duzer** (Washington, D.C.), and Associate **Daniel E. Parga** (Washington, D.C.) led the GT team, with assistance from Associate **Mitsuru Tadatsu** (Tokyo).

Mexico City office gets multi-jurisdictional results in shipping dispute.

Mexico City Shareholder **Fernando Orrantia Dworak** represented Seattle-based port operator Carrix, Inc. in an ICC arbitration initiated by Grupo TMM, S.A.B., a Mexican shipping company. An award favorable to Carrix was entered in October 2018. GT also prevailed on behalf of its client in related federal court proceedings. Orrantia was assisted by Associates **Juan J. Ledón** (Mexico City).

GT scores tough “road win” before Japan Commercial Arbitration Association.

A multi-office GT team scored a “road win” in a case before the Japan Commercial Arbitration Association (JCAA). GT’s client, a renewable power plant developer, was locked in a dispute with a U.K. registered company related to the development and sale of a power plant project in Japan. After a week-long hearing, GT’s client prevailed on all claims and was awarded a portion of its fees and costs for defending the suit. The GT team was led by Thomas G. Allen, with help from Andrew Van Duzer and Mitsuru Tadatsu. GT’s London office, led by **Stephen B. Brown** and **Rob Collier-Wright**, brought enforcement proceedings in London courts. This case was governed by Japanese law and arbitrated in Tokyo before three Japanese arbitrators. The claimant was represented by a Japanese law firm.

Enforcing an award under the Netherlands Arbitration Act.

Amsterdam Shareholder **Allard Huizing** secured the enforcement of an arbitral award in favor of Serena Equity Limited. Enforcement proceedings were before the Amsterdam Court of Appeal under the new Arbitration Act in the Netherlands.

GT Mexico City secures ICC dismissal.

Mexico City Shareholder **Víctor Manuel Frías Garcés** represented a Michigan-based tier two auto parts supplier in an ICC arbitration. GT successfully argued that the arbitration provision was inapplicable to the dispute and obtained a dismissal of claims. The GT team included Mexico City Associate **Rocío Olea Salgado** and Law Clerk Natalia Mejía.

Victory for entertainment client raises novel issues as to an arbitration clause’s scope.

Los Angeles Shareholder and Co-Chair of the National Media and Entertainment Litigation Group **Vincent H. Chieffo** secured a multimillion-dollar award in international arbitration proceedings on behalf of a well-known international DJ. The case involved novel issues of whether injuries sustained by the DJ during a performance could be resolved in arbitration where the underlying agreement was made by the entertainer’s production company.

Awards, Recognition, and Industry Leadership

- Warsaw Shareholder **Pawel Pietkiewicz** was recognized by *Chambers Global* as a Band 1 practitioner in Dispute Resolution and listed as one of the “Most in Demand Arbitrators.” Pietkiewicz has also been recognized by Euromoney’s *Commercial Arbitration Expert Guide* for 2019.

- Washington, D.C. Shareholder **Tomás Leonard** was recognized by *The Best Lawyers in America* for two consecutive years (2019 and 2020) and by Euromoney's *Commercial Arbitration Expert Guide* for 2018 and 2019. He was also nominated to *Who's Who Legal: Arbitration 2020 – Future Leaders* by Global Arbitration Review, and was listed among Latin America's "Top 100 Lawyers" by Latinvex. Leonard is also Chambers-rated and has been recently added to the roster of international arbitrators of the Court of Arbitration of the American-Peruvian Chamber of Commerce in Lima, Perú.
- Washington, D.C. Shareholder **Nicole Y. Silver** was recognized by Latinvex as one of the "Top 100 Female Lawyers" in Latin America. Silver also has been appointed to the select roster of arbitrators of the Court of Arbitration for Art (CAfA), a joint initiative of the Netherlands Arbitration Institute and Authentication in Art. She also continues as vice chair of the D.C. Bar's International Committee on Investment and Finance, and in that capacity organized several programs this year, including a program on the United States-Mexico-Canada Agreement (USMCA) and a three-part Embassy Series focusing on trade and investment in Latin America and Canada.
- Miami Shareholder **Angelika Hunnefeld** was appointed chair of the Florida Bar International Law Certification Committee, which evaluates and manages the certification process for all Florida-barred attorneys interested in being certified in international law.
- Thomas G. Allen was appointed to a two-year term as vice chair of the Dispute Resolution and Arbitration Committee of the Inter-Pacific Bar Association (IPBA). The IPBA focuses on the Asia-Pacific region and boasts 1,500 members from 65 countries. The Japan Commercial Arbitration Association has also invited Allen to join its internal list of arbitrators.
- Daniel E. Parga has been invited to join the Center for American Progress' (CAP) U.S.-Mexico Leaders Initiative, a project designed to strengthen U.S.-Mexico relations.

New Hires and Expanding Reach

Lateral additions and firm combinations boost GT's strength in Europe, Asia-Pacific, and Latin America, deepening our international commercial and investor-state arbitration capabilities.

On July 1, 2019, **Greenberg Traurig Santa Maria opened in Milan, Italy**, becoming GT's 41st office worldwide and its fifth in Europe. The office represents a combination of GT and its longstanding ally, Santa Maria Studio Legale.

In 2018, GT's International Arbitration & Litigation Group added four shareholders, one counsel and two associates to its growing roster of professionals focused on international disputes. **Dongdoo Choi** (Seoul), **Tomás Leonard**, **Nicole Silver**, and **Thomas G. Allen** (Washington, D.C.) joined the group as shareholders. Andrew Van Duzer and Daniel Parga joined as associates. Of Counsel **Nicoletta Timofti** also rejoined GT in Washington, D.C. after living abroad for several years.

Recent Insights

Supreme Court Declines to Intervene in Legal Challenge to Trump Tariffs

The United States Supreme Court has **declined** to intervene in a challenge to President Trump's authority to enact steel and aluminum tariffs for stated reasons of national security. [\[Read more\]](#)

WTO Decision Could Be Blueprint for NAFTA Investor Claims

In a landmark ruling that could have significant implications for U.S. Section 232 tariffs on imports of steel and aluminum (and potentially autos), a World Trade Organization (WTO) Dispute Settlement Body Panel published a decision on April 5, 2019, holding that the national security exception in Art. XXI of the General Agreement on Tariffs and Trade (GATT) is not self-judging. [\[Read more\]](#)

WTO Decision Could Be Blueprint for Challenges to Trump Tariffs

A primary focus of the Trump Administration's agenda has been to remake U.S. trade policy with measures largely viewed as protectionist and anti-free trade, and critics of this agenda may have found support from a World Trade Organization panel. [\[Read more\]](#)

Joinder in International Commercial Arbitration

This article examines joinder in international commercial arbitration, focusing on institutional rules' requirements for a successful joinder application. [\[Read more – subscription\]](#)

TDM Special Issue on 'Judicial Measures and Investment Treaty Law'

This TDM special issue presents and promises to promote a thoughtful discussion regarding the recent rise in investment treaty claims based on judicial conduct. [\[Read more – subscription\]](#)

Trump Administration Cracks Open Door to Private Law Suits Against Cuba with Partial Libertad Act Title III Implementation

On March 19, 2019, a never-before-used Cuban embargo measure went into effect that makes it possible for U.S. claimants to sue the Cuban government in U.S. courts for confiscated Cuban property. [\[Read more\]](#)

The United States Supreme Court Hands Victory to Arbitration

On Jan. 8, 2019, the United States Supreme Court issued a unanimous decision in *Henry Schein, Inc. v. Archer & White Sales, Inc.*, holding that courts may not override a contract delegating to arbitrators the threshold question of arbitrability. [\[Read more\]](#)

Editorial Board

Questions about topics covered in this newsletter should be directed to the Editorial Board of GT's International Arbitration & Litigation Newsletter:

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