



hague service convention out of reach for foreign parties who select california arbitration forum and agree to informal notice of suit methods

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Last week, in *Rockefeller Technology Investments (Asia) VII v. Changzhou Sinotype Technology Co.*, Case No. S249923 (Cal. April 2, 2020), the California Supreme Court held that the Hague Service Convention does not apply to the state's arbitration enforcement proceedings where transnational parties agree to informal notice of suit methods. The Court concluded that when these parties agree to submit to California arbitration, the California Arbitration Act ultimately governs service of process. And because the Act allows parties to enter into informal service arrangements, formal service of process procedures – including the Convention's service mechanisms – are waived. This result should prompt foreign parties to re-evaluate the pros and cons of submitting to arbitration in California and agreeing to include informal notice of suit provisions in their underlying contracts.

The outcome presents a notable exception to the norms that foreign entities typically rely on in the Hague Convention. Generally, the Convention requires parties to serve notice of suit through each signatory's Central Authority, which in turn carries out service consistent with their respective country's domestic laws. As the U.S. Supreme Court held in *Water Splash v. Menon*, 137 S. Ct. 1504 (2017), additional methods of service are also allowable if the receiving country does not expressly prohibit it and if the domestic law of the forum country provides for it. One benefit of the Convention is that it protects international litigants from being hauled into a foreign court based on application of inconsistent and unfamiliar rules for providing them with notice of suit.

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