



Mark Bravin

Partner



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legal expertise

Mark heads MSK’s International Dispute Resolution practice. He and his team specialize in handling disputes between private parties and sovereign governments in US court litigation and international arbitration. He has a distinctive record of finding effective solutions to intricate, and often cutting edge, legal problems involving international investments and contracts. Mark has extensive experience with the Foreign Sovereign Immunities Act (FSIA) – which governs all lawsuits against foreign states and state agencies in U.S. federal and state courts. He also has handled a variety of arbitration-related matters under the New York Convention on Recognition and Enforcement of Foreign Arbitral Awards, including motions to compel arbitration and petitions to enforce arbitral awards.

representative matters

Current Cases

- *TIG Insurance Co. v. Republic of Argentina* (D.C. Cir. No. 23-7064): Obtained precedent-setting appellate victory for a U.S. judgment creditor seeking to enforce international commercial arbitration awards against property owned by a foreign state. 967 F.3d 778 (D.C. Cir. 2020). The Court of Appeals adopted TIG’s arguments for a new Circuit rule requiring district courts to consider the totality of the circumstances concerning commercial use of the property at the time of filing the enforcement action, and not at a later date. This precedent greatly reduces the risk that a foreign state debtor can defeat a judgment creditor’s enforcement action by halting or pausing commercial use of their property after the enforcement litigation has begun. A second, pending appeal will decide whether an arbitral award can be enforced in the D.C. Circuit against a foreign state that is a successor-in-interest or alter ego of the agency or instrumentality that signed the contractual arbitration agreement.

practice areas

litigation
international disputes
commercial litigation

admissions

U.S. Supreme Court
U.S. Court of Federal Claims
District of Columbia, 1980
U.S. Court of Appeals
Fourth Circuit
Ninth Circuit
U.S. District Court
District of Columbia

education

Harvard Law School, J.D., 1978
Harvard University, John F. Kennedy School of Government, M.P.P., 1978
University of California, Los Angeles, B.S., 1973; *summa cum laude*

languages

Spanish, professional proficiency

other career experience

- Georgetown University

- *Mady Marieluise Schubarth v. Federal Republic of Germany and BVVG* (D.C. Cir. No. 24-7047, pending) Representing U.S. citizen seeking expropriation damages against the BVVG, a company created by the newly-unified German government to own, operate, and sell expropriated property in former East Germany. Obtained favorable D.C. Circuit ruling that Schubarth's claim was actionable, *Schubarth v. Fed. Republic of Germany*, 891 F.3d 392 (D.C. Cir. 2018), and District Court's favorable jurisdictional ruling that Schubarth's property was taken in violation of international law, *Schubarth v. BVVG*, 2024 WL 1328457. Schubarth is defending against BVVG's argument on appeal that the taking of her property by occupying Soviet authorities in 1945 was a "domestic taking" and therefore not in violation of international law. If a final judgment awarding damages is obtained on remand and not paid voluntarily, Schubarth may seek to enforce the judgment against property owned by the BVVG in Germany and property owned by Germany and used for a commercial purpose in the United States.
- *John and Jane Does D-1, et al v. Democratic People's Republic of Korea*, No. 23-CV-00273-TJK, (D.D.C. pending). This is a second federal terrorism lawsuit brought against North Korea on behalf of crew members of the USS Pueblo and their immediate family members. For details, see below under Concluded Cases, *John Doe A-1 To A-49 et al v. Democratic People's Republic of Korea*, 2021 WL 723257 (D.D.C. Feb. 24, 2021).

Law Center, Adjunct Professor, teaching graduate seminar on Investor-State Dispute Resolution (2010-2024)

- Partner at Winston & Strawn LLP, Partner, Global Co-chair of International Arbitration Practice (2011-2016)
- Morgan, Lewis & Bockius LLP, Partner, Head of International Arbitration and International Regulatory practices (1986-2011)
- Wald, Harkrader & Ross, Associate (1979-1986), working on cross-border litigation and arbitration of claims at the Iran-U.S. Claims Tribunal by U.S. companies seeking compensation against Iran arising out of the Iranian Revolution

Concluded Cases

- *John Doe A-1 To A-49 et al v. Democratic People's Republic of Korea*, 2021 WL 723257 (D.D.C. Feb. 24, 2021). Obtained judgment for \$1.1 billion against North Korea on behalf of crew members of the USS Pueblo and their immediate family members for the physical injuries and emotional trauma suffered from North Korea's January 1968 unprovoked attack on the Pueblo, holding the crew hostage and subjecting them to torture for 11 months. Plaintiffs are eligible to recover a portion of their judgments from the U.S. Victims of State-Sponsored Terrorism Fund. Congress created the Fund in December 2015 to address the difficulties American victims encounter when trying to enforce court judgments against foreign states that sponsor terrorist attacks.
- *Robert C. Allan, et. al. v. Islamic Republic of Iran*, 2019 WL 2185037 (D.D.C. May 21, 2019). Won \$349 million in compensatory damages for 108 passengers and family members based on the June 1985 hijacking of a commercial flight (TWA 847) by Hezbollah terrorists. The District Court found that Iran financed, supported, trained, and guided Hezbollah for the purpose of using terrorist hijacking to promote a largely anti-Semitic and anti-American

agenda. He also held the passengers and their families were entitled to be compensated for the physical injuries and emotional trauma they suffered. Iran did not defend and the Court entered a default judgment under the federal Terrorism Statute. Each of the 108 plaintiffs has received partial payment of their judgments from the USVSST Fund and will remain eligible for future payments by the Fund.

- *Estate of John McCarty v. Islamic Republic of Iran*, 2020 WL 7696062 (D.D.C. Dec. 28, 2020): obtained judgment against Iran for \$59 million for an additional 40 passengers and immediate family members who were victims of the TWA Flight 847 terrorist hijacking in 1985.
- *Hardy v. India*: successfully defended India against a U.S. oil company's attempt to convert a foreign arbitral award into an enforceable federal court judgment. India's defense raised rarely litigated questions regarding the New York Convention's "public policy" exception to recognition and enforcement of foreign arbitral awards. The district court adopted India's defense that it would violate U.S. public policy to enforce an arbitral award compelling a foreign sovereign to enter into a concession agreement for development of its offshore gas and oil resources, and imposing a rapidly escalating financial penalty to coerce compliance. Hardy appealed to the D.C. Circuit but withdrew the appeal before briefing. *Hardy Exploration & Production (India), Inc. v. Gov't of India, Ministry of Petroleum and Natural Gas* (314 F.Supp.3d 95 (D.D.C. 2018)).
- *McKesson v. Iran*: obtained judgment for an American company whose investment in an Iranian dairy was expropriated after the Iranian Revolution. McKesson won \$30.6 million against Iran after two bench trials, Iran's seven DC Circuit appeals, and Iran's three unsuccessful petitions for Supreme Court review. *McKesson Corp. v. Islamic Republic of Iran*, 672 F.3d 1066 (D.C. Cir. 2012), cert. denied, 568 U.S. 1229 (2013). What began as an arbitration at the Iran-U.S. Claims Tribunal in 1982 transformed into precedent-setting FSIA litigation in U.S. court of epic proportions, lasting 26 years.
- *Ecuador v. Chevron*: Represented Ecuador in defense of suit by Chevron to enforce a \$96 million arbitral award. Ecuador's novel defense to enforcement relied on an FSIA immunity provision applicable only if Ecuador agreed to arbitrate the dispute underlying the award. Ecuador contended it never agreed to arbitrate claims relating to an investment that ended before the US-Ecuador investment treaty took effect. The D.C. Circuit affirmed the district court's reliance on findings of international arbitrators to establish jurisdictional facts. It also held that the foreign sovereign, not the plaintiff, bears the ultimate burden of proof on sovereign immunity. *Republic of Ecuador v. Chevron Corp. and Texaco Petroleum Co.*, 795 F.3d 200 (D.C. Cir. 2015), *reh'g den.* (September 28, 2015), cert. denied (June 6, 2016).
- *Orkin v. Swiss Confederation and Museum Oskar Reinhart am Stadtgarten*, 770 F. Supp. 2d 612 (S.D.N.Y. 2011), *aff'd* 444 F. App'x 469, 471 (2d Cir. 2011). Successfully represented Swiss government and government-owned art gallery in district court in suit for possession of a Van Gogh drawing sold by plaintiff's grandmother in Berlin in 1933 to a Swiss collector and eventually bequeathed to the Swiss government. Complaint alleged the drawing was a "flight asset" (sold to finance a Jewish family's escape from Nazi-controlled Germany) for which good title could not be acquired under international law. Obtained dismissal on FSIA grounds.
- *Chevron v. Ecuador*: Collaborated with a team of partners and associates representing Ecuador in a PCA investor-state treaty arbitration. Chevron claimed Ecuador should pay a \$9 billion judgment against Chevron issued by Ecuadorian courts in an environmental suit, plus Chevron's legal fees reportedly in the range of \$1-2



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billion. *Chevron Corp. and Texaco Petroleum v. Ecuador* (PCA Case No. 2009-13).

- Lead appellate counsel for a U.S. investor in Ecuadorian aqua-culture business in appeal from district court judgment recognizing and enforcing an ICC arbitral award rendered by sole arbitrator. Object of appeal was to obtain remand for discovery to explore arbitrator's failure to disclose ties to opposing party's arbitration counsel. *Federal Deposit Insurance Corporation, as Receiver for Republic Federal Bank, N.A. v. IIG Capital LLC*, 12-10686 (11th Cir. 2013).
- Lead counsel representing the Israeli manager of Las Vegas-based real estate limited partnerships in an ICDR arbitration brought by one of Israel's largest construction magnates. Joined case as lead counsel after sole arbitrator resigned on self-created conflict of interest following five years of arbitration. Obtained dismissal of all claims against client and award of \$1 million in legal fees, which were collected. *Yossi Avrahami v. Dotan Melech*, Claim 50-181-T00078-08 (ICDR 2012).
- *Ochoa Lizarbe v. Rivera-Rondón*, 642 F. Supp. 2d 473. (D. Md. 2009), *aff'd* 2010 U.S. App. LEXIS 19739 (4th Cir., Sept. 22, 2010): represented survivors of a 1985 massacre in Peru's highlands seeking damages from a former Peruvian Army officer for alleged acts of torture, extrajudicial killing and crimes against humanity. Defeated motion to dismiss on FSIA immunity grounds. Defendant was deported to Peru where he was tried for crimes under Peruvian law.

honors & awards

- *Chambers Global*: International Arbitration
- *Chambers USA*: America's Leading Lawyers for Business (International Arbitration)
- *Euromoney's* Guide to the World's Leading Experts in Commercial Arbitration
- Legal Media Group: Best of the Best (International Arbitration)
- *Washingtonian Magazine*: Top Lawyer (International Law)
- *Super Lawyers*: International Lawyer

headlines

Mark Bravin and Eleanor M. Lackman Recognized in the *Chambers Global Guide 2022*
Chambers Global Guide 2022, March 3, 2022

MSK Practices and Attorneys Recognized in *Chambers USA 2021 Guide*
Chambers USA, May 20, 2021

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MSK Practices and Attorneys Recognized in *Chambers USA 2020 Guide*
Chambers USA, April 23, 2020

MSK Practices and Attorneys Recognized in *Chambers USA 2019 Guide*
April 25, 2019

MSK, Mark Bravin Featured in TWA Judgment Coverage
March 2019

MSK Attorneys Named to the List of 2019 *Southern California Super Lawyers*
January 30, 2019

MSK Practices and Attorneys Recognized in *Chambers USA 2018 Guide*
May 3, 2018

MSK Practices and Attorneys Recognized in *Chambers USA 2017 Guide*
May 26, 2017

MSK Attorneys Named to the 2017 List of *Super Lawyers*
January 20, 2017

media mentions

Mark Bravin and Theresa Bowman Highlighted in *Law 360* for TIG Insurance Co. Client Win
Law 360, July 31, 2024

Mark Bravin Quoted in *Law360*
July 3, 2019

Mark Bravin Mentioned in *Law360*
December 1, 2016

Mark Bravin Featured in *Today's General Counsel* and *The Litigation Daily*
June 2, 2016

MSK Practices and Attorneys Recognized in *Chambers USA 2016 Guide*
May 31, 2016

Mark Bravin Mentioned in *The National Law Journal*
May 30, 2016

Mark Bravin Featured in *GAR*, *Washington Business Journal*, *The American Lawyer*, *Thomson Reuters Westlaw*
and more
May 19, 2016

Mark Bravin Featured in *Lateral Link*
May 9, 2016

publications

The Guide to Investment Treaty Protection and Enforcement - Second Edition
Enforcement and Recovery: Practical Steps
Global Arbitration Review, December 21, 2023

GAR Investment Treaty Arbitration (2022)
Global Arbitration Review - Investment Treaty Arbitration Know-how, March 2023

The Guide to Investment Treaty Protection and Enforcement - Enforcement and Recovery: Practical Steps
Global Arbitration Review, December 2021

GAR Investment Treaty Arbitration (2021)
Global Arbitration Review - Investment Treaty Arbitration Know-how, September 2021

GAR Investment Treaty Arbitration (2020)
Global Arbitration Review - Investment Treaty Arbitration Know-how, August 2020

National Court Powers to Order Interim Measures or to Enforce Orders Made by Arbitral Tribunals
Interim and Emergency Relief in International Arbitration
Juris Publications, 2015

Arbitrating Closely Related Counterclaims at ICSID in the Wake of *Spyridon Roussalis v. Romania*
Transnational Dispute Management 4, 2012

An Arbitrator's Failure to Disclose Conflicts: Practical Advice Before Starting & After Completing An Arbitration
Corporate Live Wire, August 7, 2012

Investor-State Arbitration: Effective Means to Resolve Disputes Between a Foreign Investor and the Host State
Financier Worldwide, October 2011

events & speaking engagements

Role of Business in Law – Lectures on Due Diligence: Contracts: Arbitration
June 27, 2021

Introduction to International Commercial Arbitration, Distinguished Lecture Series: 1 & Inauguration of Centre for
Excellence in Alternative Dispute Resolution, GLA University, Mathura, U.P., India
February 14, 2020

What Role for Artificial Intelligence in International Dispute Resolution?

April 25, 2019

Technology, a Threat or an Opportunity for Legal Professionals?

April 18, 2018

Third-Party Funding in International Commercial and Investment Arbitration, *Chartered Institute of Arbitrators (CIArb) Annual Conference*

April 3, 2018

Best Practices in International Arbitration and Recent Developments

October 26, 2016

The TransPacific Partnership and the Politics of International Arbitration, *Dickinson Law School (Penn State University)*

January 29, 2016

Civil and Common Law Lawyers Deal With The Conventions—Service of Process and Taking of Evidence Abroad: The Impact of "Electronic Means" on the Operation of the Hague Conventions, *Georgetown University Law Center*

November 2, 2015

Anatomy of an International Trade Case, *Metals Service Center Institute, MSCI Economic Summit 2016, Schaumburg, Illinois*

September 10, 2015

Investment Arbitration and WTO Litigation at Crossroads, *Madrid Arbitration Day II, Universidad Pontificia Comillas, Madrid, Spain*

May 22, 2015

Sovereign Immunity – Immunity from Jurisdiction and Developments in the Law in *McKesson v. Iran*

Federal Bar Council, New York City

May 7, 2014

Damages in International Arbitration, Recent Trends in Quantum

Econ One Research, Washington, D.C.

May 1, 2014

Foreign Sovereign Immunity and the Act of State Doctrine

Seminar on Public International Law, Quito, Ecuador

November 19, 2013

Dispute Resolution Clauses in International Contracts: Pitfalls and Best Practices

Washington, D.C.

November 12, 2012



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Counterclaims in Investor-State Arbitration
Conference on International Arbitration and Dispute Resolution, Salzburg, Austria
May 26, 2012

International Briefing Series: Export Compliance Strategies 2011 Overview (Webinar)
Practising Law Institute (PLI)
June 2011