

# Third Circuit Expands Pathways for Enforcement of Foreign Arbitral Awards Against U.S.-Based Assets

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On May 18, 2026, the U.S. Court of Appeals for the Third Circuit held in *Sociedad Concesionaria Metropolitana de Salud S.A. v. Webuild S.p.A.* that federal courts may exercise jurisdiction to enforce a foreign arbitral award against a debtor's property in the forum without establishing the minimum contacts ordinarily required for personal jurisdiction. In practical terms, the decision allows award creditors to pursue enforcement in the Third Circuit against a debtor's assets—even where the debtor, the forum, and the underlying dispute otherwise lack any connection.

Analogizing the enforcement of arbitral awards to the enforcement of judgments, the Third Circuit held that, once a competent tribunal has determined that a debt is owed, there is “no unfairness” in allowing proceedings to realize on that debt wherever the debtor holds property.<sup>1</sup>

The Third Circuit is now the latest federal appellate court—joining the Second and Ninth Circuits<sup>2</sup>—to recognize that creditors of foreign arbitral awards may invoke attachment jurisdiction over U.S.-based assets, including shares in subsidiaries, bank accounts, and other property, even where the underlying dispute and the award debtor otherwise lack ties to the forum. While district courts in other circuits have followed this approach,<sup>3</sup> the Fourth Circuit has taken a different view, holding that the presence of assets in the forum is insufficient to enforce an arbitral award absent minimum contacts.<sup>4</sup>

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<sup>1</sup> *Sociedad Concesionaria Metropolitana de Salud S.A. v. Webuild S.p.A.*, No. 24-3005, 2026 WL 1379702, (3d Cir. May 18, 2026); *Shaffer v. Heitner*, 433 U.S. 186, 210, 97 S. Ct. 2569, 2583, 53 L. Ed. 2d 683 (1977).

<sup>2</sup> See, e.g., *Frontera Res. Azer. Corp. v. State Oil Co. of Azer. Republic*, 582 F.3d 393, 397–98 (2d Cir. 2009); *Glencore Grain Rotterdam B.V. v. Shivnath Rai Harnarin Co.*, 284 F.3d 1114, 1127 (9th Cir. 2002).

<sup>3</sup> See, e.g., *Societe Nationale d'Operations Petrolieres de la Cote d'Ivoire v. MRS Holdings Ltd.*, No. 24-cv-80363-DMM, 2024 WL 6968988, at \*10 (S.D. Fla. Dec. 18, 2024).

<sup>4</sup> *Base Metal Trading, Ltd. v. OJSC “Novokuznetsky Aluminum Factory”*, 283 F.3d 208, 213–14 (4th Cir. 2002).

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**Background.** The dispute arose from a construction project in Santiago, Chile.

In 2014, the Chilean Ministry of Public Works awarded a contract for the design, construction, and operation of a new hospital. The contract was assigned to Sociedad Concesionaria Metropolitana de Salud S.A. ("**SCMS**"), a Chilean company, which in turn entered into a construction contract with Astaldi S.p.A. ("**Astaldi**"), an Italian construction company, to carry out the design and construction work.

In 2018, Astaldi commenced a "concordato" proceeding in Italy—a restructuring process akin to a proceeding under Chapter 11 of the United States Bankruptcy Code—that restricted its ability to pay certain debts. SCMS determined that Astaldi could no longer complete the project on time and terminated the construction contract. SCMS then initiated arbitration proceedings before the Santiago Center for Arbitration and Mediation in accordance with the underlying contract. The arbitral tribunal ultimately issued an award in SCMS's favor, finding Astaldi liable for breach of contract and awarding damages.

During the arbitration, Astaldi completed its restructuring by transferring the majority of its operating business—including construction and infrastructure projects—to Webuild S.p.A. ("**Webuild**"), an Italian multinational construction company. Under the restructuring plan, Webuild acquired Astaldi's core business operations as a going concern, while Astaldi retained certain residual assets for liquidation.

Seeking to enforce the arbitral award under the U.S. Federal Arbitration Act, which implements the New York Convention, SCMS filed a petition in the U.S. District Court for the District of Delaware to confirm, recognize, and enforce the award against Webuild. SCMS contended that the assets and liabilities associated with the Santiago hospital project were among those transferred to Webuild, making Webuild the successor to Astaldi's obligations under the arbitral award.

In particular, SCMS invoked *quasi in rem* jurisdiction over shares that Webuild held in Webuild US Holdings, Inc., a wholly-owned subsidiary incorporated in Delaware.<sup>5</sup> SCMS contended that the presence of those shares in Delaware provided a sufficient basis for the court to adjudicate the enforcement action.

Webuild moved to dismiss for lack of personal jurisdiction, arguing that SCMS had not established minimum contacts between Webuild, Delaware, and the underlying dispute, as required under *International Shoe Co. v. Washington*.<sup>6</sup> The District Court agreed and

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<sup>5</sup> See DEL. CODE ANN. tit. 8, § 169 ("[T]he situs of the ownership of the capital stock of all corporations existing under the laws of this State . . . shall be regarded as in this State.").

<sup>6</sup> 326 U.S. 310 (1945).

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dismissed the petition, holding that the presence of Webuild's Delaware-based assets alone was insufficient to support jurisdiction in the enforcement action.<sup>7</sup>

**The Decision.** The Third Circuit vacated the District Court's dismissal, holding that the District Court erred in requiring minimum contacts for an action to enforce an already adjudicated debt.

The court's analysis centered on footnote 36 of the Supreme Court's 1977 decision in *Shaffer v. Heitner*,<sup>8</sup> which states: "Once it has been determined by a court of competent jurisdiction that the defendant is a debtor of the plaintiff, there would seem to be no unfairness in allowing an action to realize on that debt in a State where the defendant has property, whether or not that State would have jurisdiction to determine the existence of the debt as an original matter."<sup>9</sup> The Third Circuit held that this principle preserves *quasi in rem* jurisdiction—specifically, attachment jurisdiction—as a means to enforce a previously adjudicated liability. Under this form of jurisdiction, the presence of a debtor's property in the forum is sufficient to support the court's authority to enforce the debt, without requiring any additional connection between the forum, the debtor, and the underlying dispute. The court emphasized that holding otherwise would allow arbitral debtors to deliberately place assets in jurisdictions where courts would lack personal jurisdiction over them.

The court reasoned that, although arbitral awards are not judgments subject to the Full Faith and Credit Clause, the procedure for enforcing a foreign arbitral award under the New York Convention nonetheless provides sufficient protections for the award debtor's due process rights. An award debtor may raise specific defenses—such as the invalidity of the arbitration agreement or a violation of public policy—and the confirmation proceeding is a summary process that does not re-litigate the merits of the underlying dispute. The court also emphasized that Congress, by implementing the New York Convention, has expressed a strong federal policy in favor of enforcing international arbitral awards, and that permitting debtors to evade collection simply by holding assets in forums with which they lack minimum contacts would undermine that policy.

The Third Circuit did not, however, resolve the successor-in-interest question. Because the arbitral award was rendered against Astaldi—not Webuild—the court remanded the

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<sup>7</sup> *Sociedad Concesionaria Metropolitana de Salud S.A. v. Webuild S.p.A.*, No. 23-1175-CFC, 2024 WL 4333144 (D. Del. Sept. 27, 2024).

<sup>8</sup> 433 U.S. 186 (1977).

<sup>9</sup> 433 U.S. at 210 n.36.

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case to the District Court to determine whether Webuild is Astaldi's successor in interest and therefore liable for the award.

**Practical Implications and Key Takeaways.** The Third Circuit's decision significantly strengthens the ability of foreign arbitral award creditors to pursue enforcement in the United States.

Although the Second and Ninth Circuits had previously recognized the possibility that an award creditor could enforce against property in the forum even where neither the debtor nor the property has any connection to the underlying controversy or the forum, the Third Circuit has now squarely resolved the issue, and in a context with significant practical reach: enforcement against shares held by a subsidiary or successor entity, including those incorporated in Delaware. The decision thus makes enforcement increasingly available against international debtors that have limited ties to the United States. By the same token, it limits the ability of award debtors to place assets beyond the reach of enforcement proceedings by holding them in jurisdictions where they lack minimum contacts.

At the same time, the decision has important limits. Attachment jurisdiction permits a court to reach only the specific property located in the forum—it does not impose broader personal liability on the debtor beyond the value of those assets. Differences also remain across the circuits. The Fourth Circuit has held that the existence of in-forum property cannot alone satisfy jurisdiction, and other circuits have not yet addressed the issue of in-forum property directly.<sup>10</sup> Given this uncertainty, parties to awards may wish to consider carefully—and early on—the jurisdictions where they anticipate pursuing or resisting enforcement in order to maximize their positions.

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Please do not hesitate to contact us with any questions.

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<sup>10</sup> See, e.g., *First Inv. Corp. of Marshall Islands v. Fujian Maweri Shipbuilding, Ltd.*, 703 F.3d 742, 750-51 (5th Cir. 2012).



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