

Gomez on the Enforcement of the Lago Agrio Judgment

Manuel Gomez (Florida International University College of Law) has posted *The Global Chase: Seeking the Recognition and Enforcement of the Lago Agrio Judgment Outside of Ecuador* on SSRN.

The Lago Agrio judgment is by all measures the largest and most complex award rendered against a multinational oil company in Ecuador, and perhaps in the entire region. With regard to its size, the type of remedies awarded to the plaintiffs by the Sucumbíos court, and the mechanisms through which those remedies will be made effective, the enforcement of the Lago Agrio judgment has rekindled a debate on several important issues that pertain to the litigation of complex cases in South America. The Lago Agrio judgment has revealed the complexity of the multi-layered, multi-step process of enforcing a foreign judgment across different jurisdictions. In so doing, the Lago Agrio ruling has a direct bearing on the larger debate about the judicial protection of collective rights in Latin America, the controversial treatment of punitive damages in countries of the civil law tradition, and the undue influence of litigants on the performance of the courts. The development of the Chevron-Ecuador litigation in South America is one of the most important pieces in the context of this saga and has been generally neglected from the consideration of academicians. This Article fills that gap.

By switching its attention away from the litigation handled by U.S. courts, and focusing into the generally overlooked South American court cases, this Article helps to complete the puzzle of the Chevron saga with regard to the factors that affect the recognition and enforcement of foreign judgments in that region. More specifically, this Article will discuss the interplay between the procedural steps routinely required by the national laws of the enforcing jurisdictions, the treaty obligations assumed by the nations involved, the statutory defenses allowed to the parties, and the litigation strategies employed by counsel to effectively assist or impede the judgment from being fulfilled. The contribution of this Article is two-fold. First, it discusses with certain level of detail the recognition and enforcement regime of foreign judgments across Latin America with special attention to the domestic and the international legal regimes

applicable to Argentina and Brazil. Second, by giving importance to the context within which the Lago Agrio litigation and related proceedings are taking place, this Article addresses defendant's strategies to evade the enforcement of an adverse judgment, and the incentives and challenges faced by plaintiffs, including the strategies procedural and otherwise, to obtain the recognition and enforcement of said foreign judgment. Although the discussion offered in this Article is centered on a single case, in a broader sense this Article highlights the practical difficulties of transnational judgment enforcement and the strategies employed by the parties across multiple countries.

The article is forthcoming in the *Stanford Journal of Complex Litigation* 2013.