

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

1			
2			
3	JOINT STOCK COMPANY STATE)	CIVIL NO.:
4	SAVINGS BANK OF UKRAINE,)	23-0764-ACR
5)	
6	Petitioner,)	
7	vs.)	
8)	
9	RUSSIAN FEDERATION,)	
10)	May 7, 2024
11	Respondent.)	Washington, D.C.
12)	10:55 a.m.

Transcript of Pre-motion Conference
Before the Honorable Ana C. Reyes
United States District Judge

APPEARANCES:

For the Plaintiff: Dennis H. Hranitzky, Esquire
Debra O'Gorman, Esquire
Yvonne Zhang, Esquire
Quinn Emanuel Urquhart & Sullivan, LLP
51 Madison Avenue
22nd Floor
New York, NY 10010

For the Defendant: Bruce Samuel Marks, Esquire
Maria Grechishkina, Esquire
Thomas C. Sullivan, Esquire
Marks & Sokolov, LLC
1835 Market Street
Suite 1717
Philadelphia, PA 19103

Reported by: Christine T. Asif, RPR, FCRR
Federal Official Court Reporter
333 Constitution Avenue, NW
Washington, D.C. 20001
(202) 354-3247

Proceedings recorded by machine shorthand; transcript produced
by computer-aided transcription

P R O C E E D I N G S

1
2 THE COURT: Ms. White, could you please call the
3 case.

4 THE CLERK: Yes, Your Honor. This is civil action
5 23-764. Joint Stock Company State Savings Bank of Ukraine
6 versus Russian Federation.

7 Will the parties please come forward and identify
8 themselves for the record, starting with plaintiff's
9 counsel.

10 MR. HRANITZKY: Good morning Your Honor, I'm Dennis
11 Hranitzky from Quinn Emanuel on behalf of the petitioner,
12 which we refer to as Oschadbank.

13 THE COURT: What bank? Excuse me.

14 MR. HRANITZKY: Excuse me?

15 THE COURT: What bank?

16 MR. HRANITZKY: Oschadbank.

17 THE COURT: Oschad.

18 MR. HRANITZKY: Oschadbank. And I'm joined by my
19 colleagues Deborah O'Gorman and Yvonne Zhang.

20 THE COURT: All right. Welcome, everyone.

21 MR. MARKS: Good morning, Your Honor. I'm Bruce
22 Marks. I represent the Russian Federation. And I have with
23 me Thomas Sullivan.

24 THE COURT: Remind me what firm you're with?

25 MR. MARKS: I'm with Marks and Sokolov,

1 S-o-k-o-l-o-v.

2 THE COURT: Okay. And so, Mr. Hranitzky, could I
3 talk to you for a minute? So I'm very familiar with the Spain
4 cases, having represented Spain in them when I was in private
5 litigation.

6 MR. HRANITZKY: Indeed, Your Honor.

7 THE COURT: I got kicked off of it. But I'm not
8 quite sure how that's relevant to your case. So I don't
9 understand the stay. Is it because of an implied arbitration
10 exception or what -- how is Spain relevant?

11 MR. HRANITZKY: Well, Your Honor, we're not -- we
12 didn't make the initial request for a stay. The initial
13 request for the stay came from the --

14 THE COURT: No, I know. I have questions for them
15 on that too.

16 MR. HRANITZKY: Sure. I mean, it's our position
17 that this case could proceed without a stay in the interest of
18 compromise --

19 THE COURT: Oh --

20 MR. HRANITZKY: -- we were willing to agree to a
21 very short stay.

22 THE COURT: I don't think Spain is going to be
23 short, I'm telling you right now. It was a six-hour hearing
24 and I think it's going to be a while before we get anything.
25 So you don't really want a stay.

1 MR. HRANITZKY: Your Honor, we would be -- we would
2 prefer to proceed. We proposed that in the interest of
3 compromise.

4 THE COURT: Okay. That's helpful because I was
5 confused by your letter yesterday. Okay. So now I want to
6 talk to you.

7 MR. MARKS: Here I am.

8 THE COURT: All right. What is the -- what was the
9 seat of the arbitration?

10 MR. MARKS: Paris.

11 THE COURT: All right. And you have a enforcement
12 action in Paris, but as I understand it I'm not bound by that
13 decision; right?

14 MR. MARKS: It would be rare in your -- you're not
15 bound by the decision, Your Honor.

16 THE COURT: Rare, but not unprecedented, because I'm
17 aware of cases in which a U.S. court has -- I can't remember
18 if it was upheld or denied, what Paris did and Paris had done
19 the opposite. So just why am I worried about what France is
20 doing.

21 MR. MARKS: Generally -- if I could respond to Your
22 Honor's question -- generally, if the Courts at the seat of
23 the arbitration annul the decision, almost all of the cases
24 that I've seen here in the United States then do not enforce
25 the award.

1 THE COURT: Right. But I'm not bound by that. I
2 have to do my own independent determination; right? And I
3 don't give it any deference. I mean, I have to do my own de
4 novo review.

5 MR. MARKS: Of what issue, Your Honor?

6 THE COURT: Of whether or not to annul the award.

7 MR. MARKS: You're not being -- no. I don't mean to
8 disagree. Your Honor, doesn't have the auth- -- in my
9 opinion, Your Honor would not have the authority to annul the
10 award because Your Honor's not in the rendering jurisdiction.
11 The authority that Your Honor --

12 THE COURT: Right. I'm sorry, you're right. I
13 can't enforce the award for U.S. purposes.

14 MR. MARKS: For U.S. purposes.

15 THE COURT: Right.

16 MR. MARKS: You do have -- in our opinion, Your
17 Honor, the Court has an independent duty to determine whether
18 it has jurisdiction under the Foreign Sovereign Immunities
19 Act.

20 THE COURT: Yes.

21 MR. MARKS: That is an independent issue that this
22 Court decides for itself.

23 THE COURT: Of course.

24 MR. MARKS: If Your Honor were to go to the next
25 stage, which would be under the New York Convention, then

1 there's a protocol where Your Honor would be able to decide
2 whether to recognize and then ultimately enforce the award.

3 THE COURT: Right, but my question is you want me to
4 stay pending whatever France does. And I'm saying France is
5 great, I love visiting Paris, I mean, but I don't -- whatever
6 they do is not going to prevent me from doing whatever I think
7 I need to do. If France comes back and says you need to annul
8 the award for French purposes, I will -- I would obviously
9 look at that. And I might think, gosh, those guys are really
10 smart and I agree with them. But I wouldn't have to -- it's
11 not like abuse of discretion standard, right, I'm just
12 starting all over with them here.

13 MR. MARKS: If the award is annulled, Your Honor,
14 the overwhelming precedent --

15 THE COURT: I know you're talking to me about
16 overwhelming precedent. I'm talking to you about what the
17 actual rules are. I know what the overwhelming precedent is.
18 I also know that there's cases going the other way because I
19 teach a class on international arbitration at Yale Law School
20 and I've taught them.

21 MR. MARKS: Fine.

22 THE COURT: So you want a stay and my point is I
23 don't want to hold this up until whatever happens in France
24 happens, because then we're just basically wasting years.

25 MR. MARKS: Well, Your Honor, I wouldn't --

1 THE COURT: I mean, if France upholds the award
2 you're not going to come up here and say, gosh, they're right.
3 No, you're going to come here and argue it.

4 MR. MARKS: That would be true, Your Honor.

5 THE COURT: Okay.

6 MR. MARKS: But if I might, Your Honor. The Courts
7 in this district have almost -- and I can cite the cases, I
8 have them, but we have the *CC/Devas* case.

9 THE COURT: Is there a D.C. Circuit opinion that
10 says if France annuls the award I have to not enforce it? Yes
11 or no?

12 MR. MARKS: Not that I know of.

13 THE COURT: Okay. Well, then whatever France does
14 is great for France, but it's not going to control what I
15 do.

16 MR. MARKS: That may be true, Your Honor --

17 THE COURT: Okay. In that case what is the basis
18 for the stay?

19 MR. MARKS: Well, the basis for the stay, if I
20 might, Your Honor, I'll just mention the case, but many, many
21 cases, Your Honor was involved in the Spain case as you would
22 know many of them, but *CC/Devas* which is a 2022 case, Judge
23 Lamberth. The infrastructure -- which was not a Spain case --
24 *Cube Infrastructure*, which was a Spain case, 2021, Judge
25 Sullivan. *InfraRed* which was I believe a Spain case, Judge

1 Bates, there's at least five or six other. The Courts in this
2 district have almost unanimously stayed proceedings involving
3 the Foreign Sovereign Immunities Act when obviously the
4 sovereign is a respondent, if there are set aside proceedings
5 still pending in the jurisdiction where the award was
6 rendered. There are --

7 THE COURT: When is France expected to rule? Where
8 are you in the proceedings?

9 MR. MARKS: Your Honor, we are before the Paris
10 Court of Appeals now the proceeding had been filed in 2019.
11 The parties -- if I could explain it, the Paris Court of
12 Appeals ruled on only one issue. It set the award aside.
13 That happened in 2021.

14 THE COURT: What was the basis for setting it aside?

15 MR. MARKS: The Court held that there was no
16 jurisdiction under Article 12 of the Bilateral Investment
17 Treaty, because the investments that were made by Oschadbank
18 were made before the jurisdictional date in the treaty,
19 January 1st, 1992. There was back and forth between Russia
20 and Ukraine at the time. And the treaty was designed to
21 exclude any investments that were made during the Soviet
22 period. And for that purpose January 1st, 1992 was deemed to
23 be the effective dissolution date of the Soviet Union.

24 The Court of Appeals -- and there was another case
25 just like this in The Netherlands where they ruled the same

1 way. They said -- don't forget the Russian Federation didn't
2 participate in the arbitration, so this is what the tribunal
3 itself ruled -- the Court of Appeals set that aside because it
4 said that the award was based on claims that were outside the
5 jurisdiction of the Bilateral Investment Treaty. About a year
6 later the Court of Cassation, which is effectively the higher
7 court or highest, perhaps, court in France set that aside.
8 They held that Article 12 was not jurisdictional and that was
9 remanded to the Paris Court of Appeals.

10 There were four or five --

11 THE COURT: Are they going to have to defer to the
12 arbitration, to the tribunal because it's a merits issue.

13 MR. MARKS: Well, Your Honor, it's a great question.
14 I can answer it in two ways. There were four other issues, or
15 maybe five I think, that the Russian Federation raised. These
16 are similar issues that we did in our short lived motion to
17 dismiss, which the Paris Court of Appeals didn't rule on.
18 Okay. Because it said, well, you're out for the one so we're
19 not going to address the other four or five. Those issues are
20 still pending before the Paris Court of Appeals, and they've
21 effectively already been briefed. They would have been
22 briefed in the first round.

23 THE COURT: When did it all get back to the Court of
24 Appeals?

25 MR. MARKS: It got back to the Court of Appeals in

1 2022. And I'll explain, if I might, Your Honor, I'm going to
2 give you the procedural history, to conclude --

3 THE COURT: Is this the procedural history? What is
4 this?

5 MR. MARKS: Well, that's from them. I didn't know
6 Your Honor wanted hand-ups. So I have a -- I can give you a
7 piece of paper, if you want, that has the dates on it.

8 THE COURT: Whatever you want to give me, I'll look
9 at.

10 MR. MARKS: This is my cheat sheet, Your Honor. The
11 set aside petition was filed by the Russian Federation in
12 2019, it was granted only on the one issue in 2021, that went
13 to the Cassation Court. That was -- only on that one issue,
14 because it was the only issue the Court of Appeals addressed.
15 It was reversed in 2022. That then has been the term in
16 French is seized, the Court of Appeals has now been seized to
17 go back and to address the other five issues. That happened
18 in March of 2024.

19 THE COURT: But it took five years from the notice
20 of the set aside to get back -- we're not waiting on this case
21 for five years. I'm telling you that right now. We're not
22 waiting on this case, you know, I'm -- first of all, I'm going
23 to let you file whatever you want to file.

24 MR. MARKS: Fine.

25 THE COURT: But I'm telling you right now I'm not

1 staying this until some time immemorial.

2 MR. MARKS: Well, Your Honor, I don't think it would
3 be time immemorial, but if I could complete the process.

4 THE COURT: Yeah, sure. Of course.

5 MR. MARKS: There was no reason to re -- to begin
6 again the Court of Appeals, because the Russian Federation had
7 already -- had also filed what's called a revision application
8 before the tribunal. They promptly did that in 2019 as
9 well.

10 THE COURT: Is that basically a motion for
11 reconsideration?

12 MR. MARKS: Excuse me?

13 THE COURT: Is that basically a motion for
14 reconsideration with the tribunal.

15 MR. MARKS: I don't want to speak over Your Honor.

16 THE COURT: No, go ahead.

17 MR. MARKS: The Russian Federation had never
18 participated in the arbitration.

19 THE COURT: Well, hold on. Hold on.

20 MR. MARKS: But --

21 THE COURT: You did participate. You just didn't
22 participate fully.

23 MR. MARKS: We didn't participate.

24 THE COURT: You issue -- you sent in a letter with a
25 jurisdictional objection.

1 MR. MARKS: We sent a letter that we were not going
2 to participate and explained why.

3 THE COURT: Well that's participating. It's not
4 like it went on without your knowledge and you're like, oh, my
5 gosh, what has just happened?

6 MR. MARKS: I didn't say that, Your Honor.

7 THE COURT: No, I understand. But let's just make
8 sure we're talking clearly. You chose not to participate.

9 MR. MARKS: I don't dispute that at all, Your Honor.
10 The Russian Federation chose not to participate. And that's
11 how I would -- I would adopt Your Honor's language. So after
12 that in 2019 timely, the Russian Federation filed what's
13 called a -- I don't speak French, I speak Russian and that
14 won't help me here.

15 THE COURT: I speak Kentucky, so --

16 MR. MARKS: Well, I'm from West Virginia.

17 THE COURT: So we're both not going to do well.

18 MR. MARKS: -- called a revision application. And
19 the allegation there was that the Oschadbank had committed
20 fraud by concealing that investments were made before the
21 beginning date of the BIT.

22 THE COURT: But he says that, in fact, what you
23 claim had not been disclosed to the tribunal had been
24 disclosed to the tribunal.

25 MR. MARKS: Well, they -- our position was that it

1 was not.

2 THE COURT: I mean, it seems like this is a yes or
3 no, like either it was or it wasn't. What's the dispute? It
4 was buried or I mean --

5 MR. MARKS: They -- yeah, it was. And the tribunal
6 never found that it was disclosed. The -- it took the
7 tribunal several years to resolve it. There was no sense to
8 go back to the Court of Appeals where there was still the
9 revision application before the tribunal. And the tribunal
10 denied that, I believe, in December of 2013.

11 THE COURT: 23.

12 MR. MARKS: So both set aside actions were then
13 renewed timely in March of 2024. Both of them are before the
14 Paris Court of Appeals. And there's no reason why the Paris
15 Court of Appeals could not rule within a year or a year and a
16 half. That may not be fast enough for Your Honor, I don't
17 know.

18 THE COURT: I mean, maybe they will rule within a
19 year, a year and a half, it doesn't seem like --

20 MR. MARKS: Well, let's -- just a second, if we
21 could remember, Your Honor, again, I don't want to interrupt,
22 but one of the reasons why it took the tribunal, which of
23 course is three people, so they -- to get together it's a
24 little more complicated, because different delays in 2020 and
25 2021 because of COVID, so that explains, that explains why

1 some of these things took longer then than they would take
2 today. Today, of course, we don't have the same COVID issues.
3 Plus everybody, sadly enough, as you learn how to use Zoom and
4 Teams.

5 So what I was going to get to, we'll file a motion,
6 Your Honor is giving us an idea what you are thinking,
7 however, this is exactly what happened and has happened in
8 many, many cases in this District, that the Courts have
9 recognized that they should not be deciding recognition
10 petitions until arbitrations have run their course. This is a
11 Bilateral Investment Treaty arbitration. Everybody who
12 practices in this area of the law, and apparently Your Honor
13 did as well, understands that it's just not a decision of an
14 arbitration tribunal.

15 Everybody understands that once there's a decision,
16 one side or the other are going to file set-aside proceedings.
17 And depending on the jurisdiction, sometimes those proceedings
18 are longer or shorter. In France, the proceedings are shorter
19 than in other jurisdictions. In some jurisdictions, at least
20 it used to be The Netherlands, you filed before a district
21 court, it went to a Court of Appeals, and then ultimately you
22 might go to the Dutch Supreme Court. In England you start
23 with the English High Court, or whatever you would call it
24 there. It then goes to the English Court of -- to the
25 whatever their appellate court is.

1 Here in France it's a much more expedited procedure.
2 In France it goes directly to the Court of Appeals. We would
3 expect a ruling within a year or so. And then depending on
4 what happens then it could go to the Cassation Court, we all
5 know looking at the record here in this case that it took the
6 Cassation Court, I don't remember, I can look at my cheat
7 sheet but Your Honor is looking at it too.

8 THE COURT: A year.

9 MR. MARKS: I think it took about a year. These
10 type of -- this type of, you know, takes judges time to decide
11 cases, particularly when it's an appellate court, you're not
12 talking about just one judge, but you're talking about three
13 or five depending on the Court.

14 THE COURT: That's why it's so much better to be a
15 district court judge. You can just do whatever you want.

16 MR. MARKS: I'm sorry.

17 THE COURT: That's why it's so much better to be a
18 district court judge. You can just do whatever you want.
19 Don't have to wait for other people, don't have to rely on
20 other people.

21 MR. MARKS: If it only paid better, right, Your
22 Honor?

23 THE COURT: Yeah, talking to someone who just took a
24 massive pay cut, I agree.

25 MR. MARKS: The issue that I was getting, there's a

1 number of issues that *CC/Devas* and *Cube* and the other cases
2 have looked at. There's policy reasons why courts in the
3 District of Columbia, and particularly these are the Courts
4 that are most familiar with the Immunity Act, this is the
5 epicenter of it, as it were. One issue is judicial economy,
6 that this court ought not -- views that it ought not be
7 deciding cases if there might be an exactly opposite result in
8 the other jurisdiction. And in this case the other
9 jurisdiction -- the only jurisdiction that has the power to
10 annul the award is looking at it. This proceeding has already
11 been pending. The Russian Federation, you know, has done what
12 it was supposed to do to get it moving. That's one reason.

13 Second, the complications that are involved if Your
14 Honor recognizes the award and it turns out that in France
15 they annul the award, then we have this whole -- the judges
16 all discussed this in the Spain cases -- then you have this
17 whole mess of what do you do, should you undo, how do you
18 undo.

19 THE COURT: But I don't have to undo; right? They
20 would be allowed to collect on it in the U.S., but not
21 everywhere else in the world.

22 MR. MARKS: Well, no, then once it gets undone, then
23 we would certainly -- there's a lot of cases or at least some
24 cases like that, Your Honor, where they come and the say, hey,
25 you shouldn't have recognized it, but you did, but now it's

1 been annulled. We have to undo it.

2 THE COURT: So I do have to do what they do?

3 MR. MARKS: What?

4 THE COURT: So I do have to do what they do? If I
5 enforce it here and then Paris annuls it later, then do I have
6 to undo the enforcement? Am I bound to do that by law?

7 MR. MARKS: You don't necessarily have to.

8 THE COURT: Okay.

9 MR. MARKS: You don't necessarily have to do it.

10 THE COURT: So let me just play this out, though.

11 MR. MARKS: Sure, but I --

12 THE COURT: Go ahead.

13 MR. MARKS: So that's one reason. The other reason
14 of course is the purpose of the Immunities Act is obviously to
15 protect sovereigns from unnecessary litigation. Why should
16 the Russian Fed -- and again, lucky me, my client's a
17 sovereign it's not an investor, why should a sovereign have to
18 be subjected to litigating the same issues in two different
19 forums.

20 THE COURT: Because you signed a BIT.
21 Congratulations. You get lots of litigation.

22 MR. MARKS: Well, that may be true, Your Honor, but
23 a lot of courts just because you sign a bit don't recognize
24 that that subjects a sovereign to having to litigate in two
25 different forums. That's why the judges who, three judges

1 that I could cite to more, all of those agreed that we wait.
2 One of the issues, of course, is comity, it's the French
3 courts that have received or seized with having the first shot
4 at it, as it were, to decide whether there actually was
5 jurisdiction over the Russian Federation. And so, therefore,
6 in the interest of comity because this case was brought in --
7 was brought in France and well -- don't for- -- it's not like
8 my clients moved to set aside after the award was brought
9 here. The case in France, Your Honor, was brought four
10 years -- four years before the recognition petition was
11 brought here.

12 THE COURT: The issues that are in front of the
13 Paris Court of Appeals now, the other four that they haven't
14 ruled on yet --

15 MR. MARKS: If I could just complete one thing, Your
16 Honor.

17 THE COURT: Okay.

18 MR. MARKS: Because you're right about the other
19 four.

20 THE COURT: I haven't asked my question yet, but go
21 ahead.

22 MR. MARKS: Okay. Under the procedure in France the
23 Russian Federation can again raise the issue, the
24 jurisdictional issue of the January 1st, 1992. The French
25 Court of Appeals is not bound by the Cassation Court ruling,

1 and they can --

2 THE COURT: I'm sorry, what?

3 MR. MARKS: I know. I know, Your Honor. But
4 there's -- believe me I was smiling too and trying to figure
5 out and say, hey, is it just France. This is their procedure
6 and there's a rationale to it. The Cassation Court can say
7 no, we don't agree, this was a jurisdictional issue and we're
8 going to issue the same decision. In France, what that then
9 means, instead of just the panel as it were at the Cassation
10 Court, then deciding the issue again, they get a full panoply
11 of judges that participate in larger Cassation Court issues,
12 it's like an en banc court.

13 THE COURT: So it's like the --

14 MR. MARKS: En banc.

15 THE COURT: If you got an appeal at the Supreme
16 Court, the Supreme Court said to the D.C. Circuit panel we
17 think you got it wrong so go en banc. Then the en banc court
18 can do what it wants.

19 MR. MARKS: Well, then that is binding on
20 everybody.

21 THE COURT: So it doesn't get appealed again to the
22 Cassation Court?

23 MR. MARKS: It goes to the Cassation Court but then
24 it goes en banc.

25 THE COURT: And then after -- it goes en banc to the

1 Court of Appeals?

2 MR. MARKS: No, to the Cassation Court.

3 THE COURT: Oh, okay. All right. So is it going en
4 banc to the Cassation Court now?

5 MR. MARKS: No, because their filter, Your Honor,
6 they don't have a procedure, I'm told. I'm not a French
7 lawyer. They don't have a procedure in the Cassation Court
8 where you can ask for reconsideration what they do have as a
9 procedure is you go back to the Court of Appeals. If the
10 Court of Appeals again decides the way that it decided
11 before --

12 THE COURT: Then it goes to the Cassation en banc.

13 MR. MARKS: Then it goes en banc. And then instead
14 of having either three or five judges decide it, then it's a
15 much larger panel of judges that do it. I'm only saying that,
16 Your Honor, just I would fully explain, and I know Your Honor
17 wanted to ask a question. I'm sorry for doing this
18 piecemeal.

19 THE COURT: Basically my question is -- you answered
20 my question as it turns out, is the jurisdictional issue is
21 still live.

22 MR. MARKS: That one issue is still live plus the
23 other four.

24 THE COURT: Are the other four issues
25 jurisdictional?

1 MR. MARKS: Oh, yeah, and we have significant issues
2 there, Your Honor, as to whether the BIT applies the Crimea,
3 because, of course, as we know, Ukraine doesn't recognize that
4 as Russian sovereign territory. Crimea was not part of the
5 Russian Federation when the BIT was signed in 1998. That only
6 changed in 2014. Your Honor, I'm not going to get into the
7 issue as to between Russia and Ukraine on that issue --

8 THE COURT: At 2:00 p.m. I have issues between
9 Israel and Palestine. So I've got quite the day.

10 MR. MARKS: Well, that is quite the day. But the
11 point being, Your Honor, we have, as you know, from our --
12 I'll call it the initial motion to dismiss, our reading of the
13 Bilateral Investment Treaty is that it doesn't apply to
14 Crimea. We have different reasons for that. One is the
15 Doctrine of Contemporanea, that when it was signed by the two
16 parties Crimea was not considered to be Russian territory.
17 And where we are now, of course, Ukraine disputes that it's
18 Russian territory. And we've made a number of arguments.
19 Those type of arguments, Your Honor, are pending before the
20 Court of Appeals.

21 THE COURT: So what's your argument in front of the
22 Court of Appeals, not that Crimea isn't Russian, it's that
23 Ukraine doesn't recognize Crimea as Russian?

24 MR. MARKS: One of the arguments is because Crimea
25 is disputed territory.

1 THE COURT: Russia doesn't think it's disputed
2 territory. Russia thinks it's Russian; right?

3 MR. MARKS: Well, we know it's disputed territory
4 because Ukraine and other countries dispute it.

5 THE COURT: Right. But if President Putin goes on
6 television today to talk about Crimea, he's not going to say
7 Crimea is disputed, he's going to say Crimea is Russian.

8 MR. MARKS: No doubt about it.

9 THE COURT: Okay. All right.

10 MR. MARKS: He may have done it already.

11 THE COURT: I'm sure he has. But go ahead.

12 MR. MARKS: Russia's position is that Crimea is
13 Russia sovereign territory. But our position, and we believe
14 there's support in international law, we submitted an
15 international law legal report --

16 THE COURT: So you be want to have your cake and eat
17 it to. You want to have your Crimea and eat it too, I
18 guess.

19 MR. MARKS: Well, not really. What we think is that
20 when you interpret the BIT, that there has to be an agreement
21 on what territory is the territory of the other country. And
22 it cuts the same way, Your Honor, Ukraine would refuse to
23 recognize -- if there's a Russia investor in Crimea, an
24 investor were to invest in Ukraine, Russia would not recognize
25 that as a covered investment --

1 THE COURT: Ukraine would not.

2 MR. MARKS: Excuse me, Ukraine. I'm sorry about
3 that. Ukraine would not, because they don't consider Crimea
4 to be Russian territory.

5 THE COURT: Well, that's a fair point.

6 MR. MARKS: And there's complicated issues here.
7 There are international law issues. And these are issues that
8 are going -- that have been before the Court of Appeals for
9 four years, roughly. At least the proceeding was filed in
10 2019. I might have it off a little bit because I don't recall
11 exactly when the briefs were filed. But these were all issues
12 that were timely filed by the Russian Federation. These are
13 issues that were fully briefed, you know, when the Court of
14 Appeals initially decided this in 2022. And in the interest
15 of comity, because the proceedings were filed in France first,
16 a number of judges in this jurisdiction -- maybe not Your
17 Honor, I guess we'll see -- but a number of judges have all
18 found the different arguments that I'm making persuasive.

19 I'd add another argument, if I might, Your Honor,
20 okay, because Your Honor's thinking, well, this -- and
21 obviously Oschadbank is going to say there's delay involved, I
22 hear what Your Honor is looking at. Let's not forget, and
23 it's right in their petition, they filed this outside the
24 three-year period. So it's a little bit like the pot calling
25 the kettle black.

1 THE COURT: In this case of Goose v. Gander.

2 MR. MARKS: There you go, it's a little bit like
3 that. There's no dispute that this petition was filed well
4 outside the three-year period that's provided under the
5 Federal Arbitration Act. We're not going to argue that. It's
6 a merits issue, it's not a Sovereign Immunities issue. And
7 we've learned our lesson from a number of cases, we don't want
8 to mix chocolate with the peanut butter. The only issues
9 we're going to raise are going to be issues under the
10 Immunities Act. But if we're talking, you know, the bigger
11 issue on delay, they're -- they --

12 THE COURT: But it would be -- your argument would
13 be on the pleadings; right?

14 MR. MARKS: What's that, Your Honor?

15 THE COURT: Your statute argument would be on the
16 pleadings?

17 MR. MARKS: Which statute argument?

18 THE COURT: That they filed after three years.

19 MR. MARKS: That would be -- that would not be a
20 Immunities Act --

21 THE COURT: No, I know, but it would be a 12(b)(6)

22 MR. MARKS: It would be, Your Honor, but there's a
23 lot of case law in this District that cautions sovereigns not
24 to make arguments outside the Immunities Act or, therefore,
25 they have to make all of their nonimmunity arguments --

1 THE COURT: Well, you already told me six
2 arguments.

3 MR. MARKS: No, I don't believe so, Your Honor.

4 THE COURT: Okay. Well, if I entered an order
5 saying I want you to brief 12(b)(1) and 12(b)(6) at the same
6 time, would that protect you?

7 MR. MARKS: I think that would violate -- with all
8 due respect, Your Honor, I think that that issue has already
9 been decided against ordering that in the PIAD case, where the
10 district court ordered a sovereign, I'm trying to think which
11 one it was --

12 THE COURT: Because I've argued a case here where I
13 argued 12(b)(1) and 12(b)(6) for Paraguay.

14 MR. MARKS: Your Honor may have chosen to do that.

15 THE COURT: Right.

16 MR. MARKS: That would have been Your Honor's
17 choice.

18 THE COURT: Oh, I can't force you to do it.

19 MR. MARKS: That is the purpose.

20 THE COURT: Got it. Because I can't force you to
21 get to the merits before I decide jurisdiction.

22 MR. MARKS: That would be our view.

23 THE COURT: Yeah. Okay. That makes more sense.
24 Okay. I got it.

25 You want to say anything else?

1 MR. MARKS: Me?

2 THE COURT: Yeah.

3 MR. MARKS: No, Your Honor.

4 THE COURT: On this stay issue, we're going to go
5 back to the other issue soon.

6 MR. MARKS: Yes, sure, Your Honor. But our -- we
7 complied belatedly with Your Honor's rule to have the
8 pre-motion conference, and we're happy to talk about the
9 motion that we would intend to file.

10 THE COURT: Yeah, I want to do --

11 MR. MARKS: But on stay, of course, we do -- it's a
12 nondispositive motion, we would intend to file it and Your
13 Honor would decide how you choose to. And we do not object to
14 staying the case until after *Blasket* is decided. One of the
15 issues in *Blasket* there's multiple issues in *Blasket* but
16 whether Your Honor gets to it or not, one of the issues in
17 *Blasket* is whether merely signing the New York Convention
18 constitutes waiver. I haven't practiced in this area for a
19 long time, and it struck me as a very odd position, but
20 nonetheless it's out there.

21 THE COURT: I don't think that's how they're going
22 to win. I think they're going to win some other way, but I
23 hear you.

24 MR. MARKS: So that's an issue then, if the *Blasket*
25 court decides -- we know the *Blasket* court -- and again there

1 are three cases, but they're interested in it because they
2 asked the U.S. State Department to file an amicus.

3 THE COURT: No, I know. I was at that argument and
4 if I was a betting human being, I would bet that my former
5 client will be in our court again, but okay.

6 MR. MARKS: Well, we know you're betting from the
7 prior case because you were giving 80/20 odds on the motion.

8 THE COURT: Exactly.

9 All right. Come on up. I mean, he makes a lot of
10 good points about, you know, I -- look, do I think France
11 handled World War II well? No. Like the Maginot Line, we
12 have this big line no one can cross it and Hitler just went
13 around it. No, I would not defer to France on military
14 strategy in World War II. But in terms of being the seat of
15 the arbitration, it's probably one of the most popular seats
16 in the world. And they have a very sophisticated legal system
17 to address arbitration issues. I mean, we're not talking
18 about Timbuktu. And so why -- he makes a lot of good points,
19 it's unlikely if France annuls the award I'm going to say that
20 they got it wrong, so...

21 MR. HRANITZKY: Well, Your Honor, I guess what I
22 find confusing or just don't understand about my counterpart's
23 position, is that, as I understand the sort of mandatory
24 sequence of taking of issues in this court, this court first
25 has to satisfy itself that it has subject matter jurisdiction

1 before it can reach merits issues. And my understanding of
2 the law in this circuit, in fact, in the United States, is
3 that it's settled law that whereas here, the issue of whether
4 the dispute was arbitrable was vested in the tribunal, which
5 it was under the UNCITRAL rules. I don't think anybody can
6 dispute that. And where the tribunal finds that it was seized
7 of jurisdiction to hear the case, that issue can't be
8 revisited for purposes of determining whether this court has
9 subject matter jurisdiction.

10 THE COURT: Right. Right.

11 MR. HRANITZKY: -- if it's a merits issue, right.
12 But our -- to sum up, I guess where we would like to go with
13 this, we'd just like to get past the issues that aren't really
14 issues like subject matter jurisdiction. The tribunal has
15 already determined that this dispute was arbitrable. Per se
16 that means this case falls within Section 1605(a)(6). This
17 Court has subject matter jurisdiction. So let's get on to the
18 merits issues and the statute of limitations issue.

19 THE COURT: So let me get this straight. So what
20 you would want is for me to decide the jurisdictional issues.
21 And if by the time I do that France is still outstanding, then
22 you're okay with staying the merits until France comes back.

23 MR. HRANITZKY: Well, Your Honor, I wouldn't say
24 we're okay with that, I'd say let's take a look at where we
25 are and what's happened since then. The additional point that

1 I would make is that I don't believe that -- I'm sorry, I just
2 lost my thought. At least on the issue of arbitrability, I
3 don't believe that what happens in France can ultimately
4 effect the merits disposition of whether the case was properly
5 arbitrable, but I will confess that that's not entirely clear
6 and that's a matter that it would be appropriate to brief.
7 What we'd really like to avoid is having to go through two
8 rounds of briefing where the issue of whether this court has
9 subject matter jurisdiction is already decided by the tribunal
10 when they found that the dispute was arbitrable.

11 THE COURT: I'm sorry, so what are the two rounds of
12 briefing you're trying to avoid? I'm sorry I missed it. He's
13 right. I can't make them brief 12(b)(1) and 12(b)(6) at the
14 same time I would prefer that they did that, but I can't make
15 them do that.

16 MR. HRANITZKY: I understand that, Your Honor. What
17 we would like to do is get the subject matter jurisdiction
18 issues out of the way.

19 THE COURT: Any reason we can't do that? Like if I
20 just said let's get the 12(b)(1) decided and then I'll take up
21 your stay application after that.

22 MR. MARKS: Your Honor, that's the whole issue
23 that -- I'm sorry, Your Honor -- that's the whole issue for
24 why the cases are staying. That's the one --

25 THE COURT: No, but he's right. France isn't going

1 to tell me anything about the FSIA.

2 MR. MARKS: What France it's reasonably stated in
3 *CC/Devas*, recently stated in all the Spain cases, that if
4 France decides that there was no agreement to arbitrate,
5 right, and France can do that. That's the whole purpose of
6 the --

7 THE COURT: But then he is right that's exactly
8 what's at point in the Spain cases. Because in the Spain
9 cases the European court said there's no agreement to
10 arbitrate. And the very question posed by the Spain cases is
11 for the purposes of FSIA do we have to defer to that or even
12 look at it or do we just have our own independent assessment?
13 And again, I have not talked to anyone, I don't know anything,
14 but just having listened to the argument, I'm guessing that
15 the Court -- I want to say this in every way, shape humanly
16 possible, I do not know what the appellate courts are going to
17 do. No idea. Haven't talked to anyone. I'm just like
18 layperson Ana who heard the hearing. And I would just be
19 shocked if -- I would be surprised if the Court came back and
20 said that the English -- that the European court's
21 interpretation of whether or not there was an agreement to
22 arbitrate binds or even influences our decision of whether or
23 not there was an agreement to arbitrate under the FSIA.

24 MR. MARKS: I don't know what the Court's going to
25 do in *Blasket* because I wasn't at the arbitration. Excuse me,

1 I wasn't at the Court of Appeals. However, we don't disagree
2 that there may be aspects of *Blasket* that may influence how
3 this case is decided. And that is an issue, let's not forget
4 Judge Leon, right, there were three cases that were
5 consolidated --

6 THE COURT: Right. My star associate argued that
7 case in front of Judge Leon, Ben Graham, he's phenomenal.
8 Unfortunately, Judge Chutkan went the other way. Not
9 unfortunately -- unfortunately, for my former client Judge
10 Chutkan went the other way. As did my good friend Moxie, the
11 Magistrate Judge, but you know.

12 MR. MARKS: And there was another judge in the this
13 district that went the other way too, it's one of the cases
14 that were consolidated with *Blasket*.

15 THE COURT: I can't remember.

16 MR. MARKS: I can't remember her name. But in any
17 case, that's -- the issue in *Blasket* is -- the issue in
18 *Blasket* is the -- is whether there was an agreement to
19 arbitrate.

20 THE COURT: Well --

21 MR. MARKS: And we think that if the Courts in
22 France say there was no agreement to -- there was no
23 jurisdiction because there is no agreement to arbitrate, that
24 the BIT is properly interpreted to mean that it doesn't apply
25 to Crimea, we think then that's going to be something that

1 Your Honor or the U.S. courts would look at in determining
2 under the Foreign Sovereign Immunities Act whether there was
3 an agreement to arbitrate.

4 THE COURT: Well, then actually maybe --

5 MR. MARKS: That's why you typically allow the
6 jurisdiction where the set-aside proceedings are pending to go
7 first. That was, again, the rationale in the other Spain
8 cases.

9 THE COURT: Well, Mr. Hranitzky --

10 MR. HRANITZKY: May I?

11 MR. MARKS: Sure. Yes. I'm sorry.

12 THE COURT: Maybe you were right. Maybe the way to
13 do this is to stay the case until the Spain is decided. Or, I
14 mean, I'm happy to let you all brief it now, but based on what
15 he's just told me it does seem like -- I didn't think that
16 they were going -- I didn't think the Spain case was going to
17 matter, but now I actually might.

18 MR. HRANITZKY: Your Honor, I don't believe that the
19 Spain case is dispositive. We, again, we proposed that in the
20 interest of compromise to see if maybe we can take an issue
21 off of Your Honor's desk and we could move on to other issues
22 in the case. But Your Honor was correct, I mean, our
23 preference would be that there be no stay and that we move
24 forward.

25 But there's one point, I think this whole colloquy

1 has crystallized in my mind, there seems to be a fundamental
2 disagreement about what the law in the circuit is on a very
3 fundamental point. My understanding is that after *Chevron*.

4 THE COURT: Well, I wouldn't rely too heavily on
5 *Chevron*, because if I was a betting person I would also say
6 that's not going to be around after June, but go ahead.

7 MR. HRANITZKY: Well, it's around now. And after
8 *Chevron*, when the parties agree that the issue of
9 arbitrability is vested with the tribunal, the question of
10 whether the --

11 THE COURT: Oh, you're talking about a different
12 *Chevron*.

13 MR. HRANITZKY: I may be talking about a different
14 *Chevron*.

15 THE COURT: You're talking about a different
16 *Chevron*, okay, I was like I don't understand how we got into
17 administrative agency --

18 MR. HRANITZKY: That's okay. Oh, no, I'm not
19 talking about *Chevron* deference. No, it's not the Justice
20 Gorsuch *Chevron*. This is *Chevron v. Ecuador*.

21 THE COURT: Yeah. Okay.

22 MR. HRANITZKY: The law in this circuit since 20 --

23 THE COURT: That was a crazy case. Did any of you
24 litigate that case? That was insanity.

25 MR. HRANITZKY: I'm familiar with it.

1 THE COURT: Okay. Go ahead. I'm sorry.

2 MR. HRANITZKY: We didn't appear in the case. But
3 under that case, D.C. Circuit said when the parties agree that
4 the issue of arbitrability is to be decided by the tribunal,
5 which nobody can dispute under the UNCITRAL rules that's the
6 case. Then when the tribunal finds that the dispute is
7 arbitrable, there's no issue under Section 1605(a)(6), that is
8 clear law in this circuit.

9 THE COURT: Yeah, but if the BIT doesn't apply, then
10 there was no agreement to let the arbitrators decide.

11 MR. HRANITZKY: But then that's a merits issue.
12 What *Chevron* says is that that's a merits issue. It's not an
13 issue whether there's an exception to sovereign immunity.
14 It's not an issue that goes to whether this court is seized of
15 jurisdiction. It's a merits issue.

16 THE COURT: Okay. Can you --

17 MR. HRANITZKY: I mean the other key case, if I may,
18 Your Honor, not to interrupt --

19 THE COURT: No, go ahead.

20 MR. HRANITZKY: I think there are really two cases
21 that you could read that, at least from my perspective, put
22 all of this into crystal clear perspective for the purposes of
23 whether there was an agreement to arbitrate or not. The first
24 is *Chevron v. Ecuador*. And then the second is the Supreme
25 Court decision in the *Schein* case.

1 THE COURT: In what case?

2 MR. HRANITZKY: In the *Schein* case, I have the cite
3 here. It's *Schein v. Archer and White Sales*, 139 Supreme
4 Court 524 and the pincite the 528.

5 THE COURT: Okay.

6 MR. HRANITZKY: That's a 2019 decision, I think it
7 was a Justice Gorsuch decision. And what that case says is
8 that when the tribunal decides that the dispute is arbitrable,
9 the U.S. courts can't revisit that even when the finding of
10 arbitrability was utterly groundless. That is squarely the
11 holding of the case.

12 Now, these raise merits issues, I would submit that
13 we expect that we will win on the merits as well. Right, but
14 I'm sure that my colleague would disagree with that. All I'm
15 suggesting is that there really isn't any issue whether this
16 court has jurisdiction. Let's move on to the merits, rather
17 than having to go through two rounds.

18 THE COURT: Well, they're not going to concede that
19 there's jurisdiction, so we're going to have to brief
20 jurisdiction. And I can't make them brief 12(b)(6) at the
21 same time.

22 MR. HRANITZKY: Understood. I'm just suggesting --

23 THE COURT: I would greatly prefer they did, but I
24 can't make them do that.

25 MR. HRANITZKY: We would just like to get it started

1 now.

2 THE COURT: I hear you.

3 MR. HRANITZKY: The one other point I'd like to
4 make, because we've been spending a lot of time talking about
5 the Spain cases, but there's a whole separate body of cases
6 that are much more apposite and those are the Russia cases.
7 And there are a number of them pending in this district.

8 THE COURT: Oh, yeah, what are the other courts --

9 MR. HRANITZKY: None of them are stayed.

10 THE COURT: Have any of them been teed up to be
11 stayed?

12 MR. HRANITZKY: There was a stay -- one of those
13 cases, the *Hulley* case, which I would submit if Your Honor
14 views stay rulings as being precedential at all.

15 THE COURT: I do not, but go ahead.

16 MR. HRANITZKY: I don't believe they are either, but
17 perhaps they're instructive. And you know in the *Hulley* case
18 it was the only one of the Russia arbitrable award recognition
19 cases that was stayed.

20 THE COURT: Who was that?

21 MR. HRANITZKY: The facts of that case was similar.
22 There was a set-aside proceeding brought at the seat, in that
23 case *The Netherlands*. The Court of Appeal vacated the award,
24 just like what happened in this case. It went up to the
25 highest court, it's not called the Court of Cassation in The

1 Netherlands, it's called the Supreme Court, I think. But one
2 way or the other, the Supreme Court reversed the appellate
3 court, and the matter was remanded to the Court of Appeals.

4 THE COURT: Uh-huh.

5 MR. HRANITZKY: Russia asked to extend -- there was
6 a stay in place they entered early on in the case at the time
7 that the Court of Appeals vacated the award in the first
8 instance. That stay remained in effect throughout the
9 set-aside proceedings up to the point that the Court of -- the
10 Supreme Court of the Netherlands vacated the decision of the
11 Court of appeals, vacating the award. At that point Russia
12 came back to -- or Judge Howell, Judge Howell, and asked her
13 to extend the stay. And Judge Howell said no, enough is
14 enough, this case has been stayed for a number of years. Many
15 of these issues that you're litigating in the Dutch courts
16 have already been resolved. I understand you when you say
17 there are other issues --

18 THE COURT: What is that cite? Do you have that
19 cite for me?

20 MR. HRANITZKY: That case is the last Howell case.
21 Excuse me, Your Honor, I have it in this binder.

22 THE COURT: What office are you guys from? What
23 city are you guys from?

24 MR. HRANITZKY: I was in New York until the pandemic
25 and now I'm in Salt Lake City. Park City was a nice place to

1 spend in 2020.

2 THE COURT: Are you a skier?

3 MR. HRANITZKY: I'm sorry?

4 THE COURT: Are you a skier?

5 MR. HRANITZKY: Absolutely.

6 THE COURT: Were you able to ski during COVID?

7 MR. HRANITZKY: The first year the resort -- so the
8 lockdown happened at the very end of the 2020 ski season. So
9 there was no skiing in April. For the 2021 season, most of
10 the resorts allowed skiing if you wore a mask, which was a
11 little bit of a buzz kill, but --

12 THE COURT: Well, I always wear the cover any way.

13 MR. HRANITZKY: Well, you had to wear a mask.

14 THE COURT: Over the cover?

15 MR. HRANITZKY: Yeah.

16 THE COURT: That's got to be hard to breathe.

17 MR. HRANITZKY: It wasn't great. But it wasn't a
18 great snow season anyway.

19 THE COURT: Where do you ski there?

20 MR. HRANITZKY: Well, I live right -- during the
21 pandemic I was right at Deer Valley, so I skied at Deer
22 Valley.

23 THE COURT: Awesome. All right.

24 MR. HRANITZKY: Now I live at Park City. But
25 anyway --

1 THE COURT: Have you ever skied at Sun Valley in
2 Idaho?

3 MR. HRANITZKY: Just Once.

4 THE COURT: It's amazing. No one goes out there
5 because they think it's hard to get to, but it's the No. 1 ski
6 resort every year.

7 MR. HRANITZKY: There's some other well kept secrets
8 that I'm not going to disclose on a transcript.

9 THE COURT: All right. You can tell me after.

10 MR. HRANITZKY: The *Hulley* case. This is the most
11 recent of the *Hulley* cases and the cite is 2022 Westlaw
12 1102200. And I would submit that this case is as close to on
13 all fours as you can find.

14 One of the key distinctions between the Spain cases
15 and the Russia cases, many of the Courts in the Spain cases
16 stayed -- granted requests for stays because so many of the
17 other Spain cases were stayed. And one of the considerations
18 that they took in -- had in mind --

19 THE COURT: I drafted the brief --

20 MR. HRANITZKY: I'm sure you did, Your Honor. In
21 this case --

22 THE COURT: I was an idiot. What did I know.

23 MR. HRANITZKY: In this case it's the opposite, in
24 this case none of the Russia cases are stayed. So the
25 concerns that the Courts had with allowing one plaintiff or

1 petitioner to get an unfair advantage over the others who were
2 stayed, we have the converse here. If we're stayed while all
3 of the other Russia cases are allowed to proceed and are not
4 stayed, it unfairly prejudices us.

5 THE COURT: Okay. Well, what's clear to me is I'm
6 going to need briefing on this. So you guys get together with
7 a briefing schedule for a motion to stay. Then I want to
8 talk -- but come on up because I want to talk to you about
9 your jurisdictional arguments.

10 MR. MARKS: Sure. I just, Your Honor, when you read
11 the *Schein* case, you'll see that it is not the way that it was
12 described. That case went --

13 THE COURT: Shocking that I often get lawyers
14 arguing the same language to me in wildly different ways.
15 Don't worry, I look at the cases all myself.

16 MR. MARKS: The case never went to arbitration. The
17 issue there was the district courts, whether it could order
18 arbitration if it found that the argument was wholly
19 groundless. And it went to the Court of Appeals. And then
20 the Supreme Court said that you cannot challenge an
21 arbitrable -- a finding of arbitrability even if it's wholly
22 groundless.

23 THE COURT: Okay. All right.

24 MR. MARKS: That's what happened there.

25 On the *Hulley* case, the other two cases related to

1 Ukraine which are in this district, Your Honor, the reason
2 it's a stay -- I'm not counsel in those -- but there's the
3 *Stabil* case and there's the *Naftogaz* case. The reason that a
4 stay wasn't sought, Your Honor, is because the set-aside
5 proceedings had concluded in those cases.

6 THE COURT: Okay. Well, that seems like a major
7 distinction.

8 MR. MARKS: That might be a distinction.

9 THE COURT: Okay. Well, you guys fight it out on
10 the papers. You guys come up with a briefing schedule. Do
11 not make my decide the briefing schedule. You guys figure it
12 out. Okay.

13 MR. MARKS: If I might, Your Honor, just -- there
14 was this compromise which was their idea, is Your Honor
15 intending to stay the case pending the resolution of
16 *Blasket*.

17 THE COURT: I don't know.

18 MR. MARKS: You don't know.

19 THE COURT: I really need to see the briefing.

20 MR. MARKS: Okay.

21 THE COURT: I will tell you that my inclination is
22 to move my cases forward quickly.

23 MR. MARKS: Right.

24 THE COURT: I don't like the idea of staying this
25 case, but you've made some excellent points. You've earned

1 your keep today. So I want to see some briefing.

2 MR. MARKS: Fine. Why don't we get together with
3 opposing counsel -- one of the things, by the way, Your Honor,
4 is that I think it's great that we have these in-person
5 things, because it gives you a chance to meet with opposing
6 counsel that you don't otherwise see. So after now or shortly
7 after we'll confer on the briefing schedule and we'll submit
8 something. I'm sure we'll agree and we can submit something
9 to Your Honor. And then Your Honor will decide the stay
10 before we -- I'm sorry, you wanted to ask me something?

11 THE COURT: Yeah, I -- just give me sort of the
12 elevator speech version of your -- let's say I don't grant the
13 stay and I say you guys are going to sort of move forward with
14 your jurisdictional briefing, what's the elevator speech
15 version of your brief?

16 MR. MARKS: The elevator speech is that under the
17 Sovereign Immunities Act, Your Honor has an independent duty
18 to determine whether there's jurisdiction. Therefore, Your
19 Honor has an independent duty to determine whether the Russian
20 Federation made an offer to arbitrate this dispute with
21 Oschadbank. And we have seven reasons in the original motion
22 to dismiss why that's not the case.

23 And I'll just highlight a couple of them, if I
24 might. The first argument that we made was the continuity
25 argument -- Contemporanea argument, that when you go to

1 interpret a treaty, you rely on the principles of interpreting
2 contracts, right. And at the time that the BIT was signed,
3 Crimea was not Russian territory. And, therefore, the BIT
4 would not apply to investments that -- you could not make
5 claims under the BIT for investments that were made in Crimea
6 because it was not considered to be Russian territory under
7 the BIT when it was signed.

8 THE COURT: It's a really fascinating geopolitical
9 issue. Geopolitical issues come before Courts, it's probably
10 one of the more interesting ones.

11 MR. MARKS: Well, this is your second one today,
12 right?

13 The second issue, Your Honor, was the temporal issue
14 that, again, that's not finally decided in France. The BIT
15 says that it only applies to investments made after January
16 1st of 1992.

17 THE COURT: But that they start after 1992? Because
18 I assume the investment was continuing -- I mean, there might
19 be a damages cut-off point. But even if it began after 1992,
20 wasn't the investment continuing after 1992?

21 MR. MARKS: They would not be able to recover under
22 the BIT for the value of whatever was invested by Oschadbank
23 before January 1st, 1992.

24 THE COURT: But I imagine the damages in the case
25 involved money after 1992 as well, no?

1 MR. MARKS: They may be, Your Honor. But Your Honor
2 wouldn't be able to recognize this award, because the award
3 didn't differentiate the investment before January 1st, 1992,
4 and that which was made after. Therefore, the tribunal --

5 THE COURT: But aren't they just going to argue, no,
6 if we had jurisdiction for some of it the arbitration tribunal
7 had jurisdiction. Now they may have gotten the damages wrong,
8 but that's, you know, bad tribunal.

9 MR. MARKS: I don't think that they had jurisdiction
10 to decide investments that were made before January 1st, 1992.
11 They would have to go back and they would have to then
12 properly arbitrate this based on whatever they claim the
13 damages are.

14 THE COURT: So your argument is let's -- I just want
15 to make sure I -- one of the reasons I have these conferences
16 is so you guys know what I'm thinking when you brief things.
17 So your argument is there was pre-1992 investments -- and
18 let's just hypothetical, there are pre-1992 investments that
19 were there in Crimea and then they continued and there was
20 additional investments after 1992. And your view is the
21 tribunal could not take jurisdiction -- because the tribunal
22 didn't have jurisdiction over some of it, it didn't have
23 jurisdiction over any of it. And he's going to come and tell
24 me because the tribunal had jurisdiction over some of it, they
25 had jurisdiction over all of it. Or maybe they didn't have it

1 over all of it, but I can't do anything to touch the damages,
2 because if they had jurisdiction I have to defer to it.

3 Now, as you guys brief this, I just suggest that --
4 I mean, it just seems like that's one of the issues you're
5 going to have.

6 MR. MARKS: Fair enough, Your Honor. And we will
7 look at it. I can tell you that the practice in what I'll
8 call the arbitrable award world that I know of, because this
9 exact same issue occurred in The Netherlands involving an
10 investment in Crimea, the Dutch court vacated the award and
11 remanded it back to the tribunal to reconsider. Your Honor --

12 THE COURT: Was that under the New York Convention
13 or was that under The Netherlands law?

14 MR. MARKS: Well, I believe The Netherlands law,
15 similar to France, essentially, has -- incorporates the New
16 York Convention.

17 THE COURT: Okay.

18 MR. MARKS: I think they're -- I think they're
19 parallel. Similar to Section 2 of the Federal Arbitration
20 Act. The gloss, of course, which is important we have here is
21 the Sovereign Immunities Act is above that, because of the
22 unique nature of this. So we'll look at that, Your Honor,
23 because I have to think about it, because I haven't thought
24 about it.

25 The third argument that we have is the territory,

1 that it would only -- the BIT would only apply to territory
2 that is -- which is agreed by the parties is the sovereign
3 territory, whichever country where the investment is made and
4 there's no agreement on that.

5 THE COURT: But what about his argument that, I
6 mean -- what's the response to his argument that I don't get
7 to decide whether the arbitration tribunal had jurisdiction, I
8 have to defer to what the tribunal said.

9 MR. MARKS: That's completely meritless. I mean, we
10 all --

11 THE COURT: A lot of Supreme Court case law that
12 says it's not.

13 MR. MARKS: The Supreme Court case law -- and I'm
14 familiar with it too, and *Schein* isn't one of them. But the
15 Supreme Court case law says that would only be the case where
16 there's clear and unmistakable evidence that the parties
17 exclusively -- bold, underlined, italics -- exclusively
18 delegated the decision on arbitrability to the tribunal. And
19 that's not what happened here.

20 THE COURT: Right. But once the tribunal makes the
21 decision that's what it did, I can't -- I mean, you have a
22 chicken/egg problem. But as I understand the Supreme Court,
23 like when it's the chicken/egg problem, the tribunal wins.

24 MR. MARKS: No. There has to be exclusive
25 delegation, Your Honor. And that's why it's so important and

1 it will have to be briefed, and it wasn't mentioned here, but
2 Your Honor might be familiar there's a doctrine called
3 Competence-Competence, it's not that well known in the United
4 States, but it's absolutely well known in Europe. And under
5 the doctrine of Competence-Competence, all you're saying is,
6 listen, we're going to let the tribunal look at it first, but
7 that's without prejudice, either side to file a set-aside --

8 THE COURT: Yeah, but that's not the law in the U.S.
9 It's just not. I mean, I've taught the doctrine. Literally,
10 I can see the -- I have a PowerPoint on the doctrine in my
11 class. That's not consistent necessarily or parallel exactly
12 with U.S. law. It just isn't.

13 MR. MARKS: Your Honor, I believe that the U.S. law
14 and we have -- we didn't brief this yet, right, because that
15 would be an argument they would have to make in their
16 response, but there's case --

17 THE COURT: I'm just alerting you to the issues.

18 MR. MARKS: I appreciate that, Your Honor. And
19 we'll -- it's not something that we would, I think, address in
20 our opening brief, because it's their argument that there was
21 exclusive -- I think their argument has to be, Your Honor,
22 that the delegation is exclusive. And that I have -- and that
23 I think then you have to look at the particular case.

24 But let me just say this to Your Honor and I wasn't
25 here to argue it, but this is all help -- I will say one

1 thing, it's always helpful to know what a judge thinks,
2 because then it helps us prepare what we're going to provide
3 to the judge and then the judge will make the decision. Is
4 that's -- to me it wouldn't seem to be the case, because if
5 that was the case that the tribunal's decision on jurisdiction
6 was final, how could you have all of these courts in the seats
7 of arbitration entertaining set-aside applications.

8 THE COURT: Because they're not in the U.S. There
9 are very few set asides of international tribunal decisions in
10 the U.S.

11 MR. MARKS: Well, Your Honor, I don't know that
12 this -- where this argument has been made and if it has been
13 properly made, I know it wasn't properly made in *Chevron*,
14 okay. Our dispute's not governed by U.S. law. Our dispute is
15 governed by the law of the Bilateral Investment Treaty. And
16 the choice of law is a very important issue. Your Honor might
17 say, hey, if you have a dispute between a union and a member,
18 you know, under the Labor Act, that we don't have
19 Competence-Competence. And that's a dispute that's going to
20 be governed by U.S. law. But if we're here enforcing an award
21 under an international treaty and the treaty provides that
22 it's governed by international law --

23 THE COURT: What international law is it governed
24 by? Is it -- I mean, it's the seat of the arbitration, but
25 that's not going to be the merits law. So what's the law on

1 the BIT?

2 MR. MARKS: No. You would look to international
3 law. And one of the things you do, and this is in the
4 Professor Nouvel report, Your Honor, is that you look to
5 either decisions under the BIT itself or under, I believe,
6 it's Vienna Law, VCLT Vienna Convention on the Law of
7 Treaties.

8 THE COURT: The BIT doesn't have a choice of law
9 provision?

10 MR. MARKS: International law.

11 THE COURT: It just says international law, because
12 there's no thing as international law.

13 MR. MARKS: Well no, I think when you look --
14 there's people here in D.C., I think, who would disagree with
15 that. But, Your Honor, I think when you're looking and
16 interpreting --

17 THE COURT: I should say, of course, there's
18 international law, I litigated international law. What I mean
19 is there's no -- I can't go to like Westlaw international law,
20 you know, as opposed to D.C. Circuit and then, you know, type
21 something in and then I have these things. It's a little bit
22 more -- I just I have never seen a choice of law that just
23 says international law.

24 MR. MARKS: If -- it's in the ECT, which was the
25 Spain case.

1 THE COURT: Uh-huh.

2 MR. MARKS: You look at principles of international
3 law, I know for sure because I recently looked at that
4 provision there. I would be certain something similar would
5 be in this BIT. I have it with me. But you've heard there's
6 a -- it's the international equivalent of Lexus, it's called
7 Jus Mundi.

8 THE COURT: Right, but that's --

9 MR. MARKS: Just one second. So what you look at
10 you look at sources of international law. And one of the
11 sources of international law are decisions under either this
12 BIT or similar BITs.

13 THE COURT: No, I understand.

14 MR. MARKS: And you look to see the precedent that's
15 built by the tribunals. You look at the precedent of
16 set-aside decisions.

17 THE COURT: Well, it's -- this was actually one of
18 the Judge Pan's questions during the hearing. And it is --
19 people who practice in the area understand the precedence of
20 formal arbitrable tribunals, but American lawyers and judges
21 don't. I mean, it's not precedent in the way that we consider
22 precedent.

23 MR. MARKS: It's a source of -- it's --

24 THE COURT: It's a source of information. It's like
25 a district court decision, basically.

1 MR. MARKS: It's -- but if -- when you have
2 tribunals -- even in this case, of course, you know, we didn't
3 participate, but there were, you know, extended decision by
4 the tribunal, the tribunal looks to other decisions by
5 tribunals, it looks to commentaries. It looks to --

6 THE COURT: No, I know.

7 MR. MARKS: It doesn't decide it by flipping a coin.
8 It looks to what it would consider to be reliable sources that
9 could guide it in making a decision.

10 THE COURT: No, I hear you. I understand. All
11 right. Let me ask you this, I am going to obviously -- well,
12 first of all, for these pre-motion conferences it's never
13 to -- I'm always going to let someone file if they want the
14 file. I do these because, as you saw earlier, sometimes we
15 can get rid of things without filings. It's obviously not
16 going to happen here. So you guys decide the motion to stay.
17 If -- I take it since you've already -- since basically your
18 motion to dismiss is done, it wouldn't be too much work for
19 you all to refile the motion; right?

20 MR. MARKS: I want to take into consideration what
21 Your Honor said today.

22 THE COURT: Yeah, no, I'll let you make changes, but
23 we're not talking you're starting from scratch on a motion to
24 dismiss.

25 MR. MARKS: No, I wouldn't -- no I wouldn't, we know

1 that there's now changes -- we deleted the service argument as
2 Your Honor knows, we filed the notice on that, because the
3 U.S. Department of State served the Russian Federation. So we
4 have a couple more pages. So --

5 THE COURT: Okay. All right.

6 MR. MARKS: But the answer is we would be able to
7 file it without a tremendous amount of additional work.

8 THE COURT: Okay. So let me ask you a question.
9 Come on up. Obviously, I'm going to let them file their
10 motion to stay. Now, we can proceed one of two ways and I'm
11 going to let you -- dealer's choice, choose your own
12 adventure.

13 MR. HRANITZKY: I think I know what Your Honor's
14 going to ask. Our preference would be that the briefing
15 happen concurrent.

16 THE COURT: Okay. All right. So that's what I'm
17 going to order. You guys come up with a briefing for a motion
18 to stay. And then you come up with a separate briefing for
19 the motion to dismiss on -- for the 12(b)(1) motion. If I
20 stay I won't decide the 12(b)(1). If I don't stay, I will
21 decide the 12(b)(1). Okay. And then we might just have a
22 joint hearing on the two. I know that's not your ideal, but
23 you're doing better than you were coming in.

24 MR. MARKS: Thank you.

25 THE COURT: All right. So you guys work out a

1 schedule. I'll leave you all to work out whatever you want to
2 work out. Just don't make me decide it. And then after you
3 figure out what your final date is for the replies, email
4 Chashawn to set up an argument. I would give it -- I would
5 make it at least a four-hour argument. And for two to three
6 weeks after the briefing is finalized, okay.

7 MR. HRANITZKY: Your Honor, I have one
8 administrative question.

9 THE COURT: Sure. Come on up.

10 MR. HRANITZKY: Because most of my colleagues on
11 this team are located in Paris and London.

12 (Discussion off the record.)

13 MR. HRANITZKY: That's actually the point I was
14 trying to address. Nearly all of my colleagues other than
15 Ms. O'Gorman and Ms. Zhang are located in London and Paris.

16 THE COURT: Lucky them. Let's have the hearing in
17 London. Quinn can pay. You guys are rich.

18 (Laughter.)

19 MR. HRANITZKY: But they can't dial a toll free
20 number in the United States from abroad.

21 THE COURT: Oh, we can use Zoom, no?

22 MR. HRANITZKY: So we had asked if it was possible,
23 in addition to the toll free number for these dial-ins if
24 there would be a -- if there could be circulated a nontoll
25 free --

1 THE COURT: Well, we can do it by zoom, no? For the
2 people abroad, not for you all.

3 THE CLERK: For parties, yes.

4 THE COURT: They're members of your team; right?

5 MR. HRANITZKY: Yes.

6 THE COURT: Okay.

7 MR. HRANITZKY: And I believe Mr. Marks may have the
8 same issue, because he has a client --

9 THE COURT: I apologize. I didn't realize that was
10 an issue for today or we would have fixed it for today.

11 MR. HRANITZKY: We figured it out. But it would
12 be -- ideally if there was a way they could participate
13 directly. My London and Paris colleagues have had to
14 participate by relay. One of my Salt Lake associates had to
15 conference them from the toll free number.

16 THE COURT: Okay. For the people in Paris, if you
17 will for me tonight somebody, please have a banana Nutella
18 crepe for me, that would be awesome. Think of me while you do
19 that. For the people in London, don't eat London food for me
20 tonight. Just work with Chashawn. We'll do whatever you all
21 need to do.

22 MR. HRANITZKY: Thank you.

23 THE COURT: Did you have anything else?

24 MR. MARKS: No, just thank you.

25 THE COURT: All right. Thank you.

< Dates >.	1717 1:36.	528 35:4.	47:19,
2019 decision,	1835 1:35.	55 1:14.	53:14.
35:6.	19103 1:37.	57 55:1.	addressed
December	1992 43:16,	.	10:14.
13:10.	43:17, 43:19,	.	administrative
January 1st	43:20, 43:25,	< 8 >.	33:17,
43:15.	44:20.	80/20 27:7.	53:8.
January 1st,	1998 21:5.	_____ /s/ _____	adopt 12:11.
1992 8:22,	.	_____	advantage
43:23.	.	55:7.	40:1.
January 1st,	< 2 >.	.	adventure
1992,	2 21:8,	.	52:12.
44:3.	45:19.	< A >.	agency 33:17.
January 1st,	20 33:22.	a.m. 1:14,	agree 3:20,
1992. 8:19,	20001 1:44.	55:1.	6:10, 15:24,
18:24,	2013 13:10.	able 6:1, 38:6,	19:7, 33:8,
44:10.	2014 21:6.	43:21, 44:2,	34:3, 42:8.
June, 33:6.	2019 8:10,	52:6.	agreed 18:1,
March 10:18,	10:12, 11:8,	above 45:21.	46:2.
13:13.	12:12,	above-entitled	agreement
May 32:10.	23:10.	55:5.	22:20, 30:4,
May 7, 2024	202 1:45.	abroad 53:20,	30:9, 30:21,
1:12.	2020 13:24,	54:2.	30:23, 31:18,
.	38:1, 38:8.	Absolutely	31:22, 31:23,
.	2021 7:24,	38:5, 47:4.	32:3, 34:10,
< 0 >.	8:13, 10:12,	abuse 6:11.	34:23,
00 21:8.	13:25,	Act 5:19, 8:3,	46:4.
.	38:9.	16:4, 17:14,	ahead 11:16,
.	2022 7:22,	24:5, 24:10,	17:12, 18:21,
< 1 >.	10:1, 10:15,	24:20, 24:24,	22:11, 33:6,
1 39:5.	23:14,	32:2, 42:17,	34:1, 34:19,
10 1:14.	39:11.	45:20, 45:21,	36:15.
10010 1:29.	2024 10:18,	48:18.	alerting
11 55:1.	13:13.	action 2:4,	47:17.
1102200	22nd 1:28.	4:12.	allegation
39:12.	23 13:11.	actions	12:19.
12 8:16, 9:8.	23-0764-ACR	13:12.	allow 32:5.
12(b) (1 25:5,	1:6.	actual 6:17.	allowed 16:20,
25:13, 29:13,	23-764 2:5.	actually 18:4,	38:10,
29:20, 52:19,	.	32:4, 32:17,	40:3.
52:20,	.	50:17,	allowing
52:21.	< 3 >.	53:13.	39:25.
12(b) (6 24:21,	333 1:43.	add 23:19.	almost 4:23,
25:5, 25:13,	354-3247	addition	7:7, 8:2.
29:13,	1:45.	53:23.	already 9:21,
35:20.	.	additional	11:7, 16:10,
139 35:3.	.	28:25, 44:20,	22:10, 25:1,
1605(a) (6	< 5 >.	52:7.	25:8, 28:15,
28:16,	51 1:27.	address 9:19,	29:9, 37:16,
34:7.	524 35:4.	10:17, 27:17,	51:17.

amazing 39:4.	36:6.	arguing	6:8, 6:13,
American	appreciate	40:14.	7:1, 7:10,
50:20.	47:18.	argument 21:21,	8:5, 8:12,
amicus 27:2.	appropriate	23:19, 24:12,	9:4, 16:10,
amount 52:7.	29:6.	24:15, 24:17,	16:14, 16:15,
Ana 1:18,	April 38:9.	27:3, 30:14,	18:8, 27:19,
30:18.	arbitrability	40:18, 42:24,	36:18, 36:23,
annul 4:23,	29:2, 33:9,	42:25, 44:14,	37:7, 37:11,
5:6, 5:9,	34:4, 35:10,	44:17, 45:25,	44:2, 45:8,
6:7, 16:10,	40:21,	46:5, 46:6,	45:10,
16:15.	46:18.	47:15, 47:20,	48:20.
annulled 6:13,	arbitrable	47:21, 48:12,	aware 4:17.
17:1.	28:4, 28:15,	52:1, 53:4,	Awesome 38:23,
annuls 7:10,	29:5, 29:10,	53:5.	54:18.
17:5,	34:7, 35:8,	arguments	.
27:19.	36:18, 40:21,	21:18, 21:19,	.
answer 9:14,	45:8,	21:24, 23:18,	< B >.
52:6.	50:20.	24:24, 24:25,	back 6:7, 8:19,
answered	arbitrate 30:4,	25:2, 40:9.	9:23, 9:25,
20:19.	30:10, 30:22,	around 27:13,	10:17, 10:20,
anybody 28:5.	30:23, 31:19,	33:6, 33:7.	13:8, 20:9,
anyway 38:18,	31:23, 32:3,	Article 8:16,	26:5, 28:22,
38:25.	34:23, 42:20,	9:8.	30:19, 37:12,
apologize	44:12.	aside 8:4,	44:11,
54:9.	Arbitration	8:12, 8:14,	45:11.
apparently	3:9, 4:9,	9:3, 9:7,	bad 44:8.
14:12.	4:23, 6:19,	10:11, 10:20,	banana 54:17.
Appeal 19:15,	9:2, 9:12,	13:12,	banc 19:12,
36:23.	11:18, 14:11,	18:8.	19:14, 19:17,
appealed	14:14, 24:5,	asides 48:9.	19:24, 19:25,
19:21.	27:15, 27:17,	Asif 1:41,	20:4, 20:12,
appear 34:2.	30:25, 40:16,	55:3, 55:8.	20:13.
APPEARANCES	40:18, 44:6,	aspects 31:2.	Bank 1:6, 2:5,
1:21.	45:19, 46:7,	assessment	2:13, 2:15.
appellate	48:7,	30:12.	based 9:4,
14:25, 15:11,	48:24.	associate	32:14,
30:16,	arbitrations	31:6.	44:12.
37:2.	14:10.	associates	Basically 6:24,
application	arbitrators	54:14.	11:10, 11:13,
11:7, 12:18,	34:10.	assume 43:18.	20:19, 50:25,
13:9,	Archer 35:3.	auth- 5:8.	51:17.
29:21.	area 14:12,	authority 5:9,	basis 7:17,
applications	26:18,	5:11.	7:19, 8:14.
48:7.	50:19.	Avenue 1:27,	Bates 8:1.
applies 21:2,	argue 7:3,	1:43.	began 43:19.
43:15.	24:5, 44:5,	avoid 29:7,	begin 11:5.
apply 21:13,	47:25.	29:12.	beginning
31:24, 34:9,	argued 25:12,	award 4:25,	12:21.
43:4, 46:1.	25:13,	5:6, 5:10,	behalf 2:11.
apposite	31:6.	5:13, 6:2,	belatedly

26:7.	bound 4:12,	47:2, 50:6.	12:10.
believe 7:25,	4:15, 5:1,	calling	chosen 25:14.
13:10, 19:4,	17:6,	23:24.	Christine 1:41,
22:13, 25:3,	18:25.	Cassation 9:6,	55:3, 55:8.
29:1, 29:3,	breathe	10:13, 15:4,	Chutkan 31:8,
32:18, 36:16,	38:16.	15:6, 18:25,	31:10.
45:14, 47:13,	brief 25:5,	19:6, 19:9,	Circuit 7:9,
49:5, 54:7.	29:6, 29:13,	19:11, 19:22,	19:16, 28:2,
Ben 31:7.	32:14, 35:19,	19:23, 20:2,	33:2, 33:22,
bet 27:4.	35:20, 39:19,	20:4, 20:7,	34:3, 34:8,
better 15:14,	42:15, 44:16,	20:12,	49:20.
15:17, 15:21,	45:3, 47:14,	36:25.	circulated
52:23.	47:20.	cautions	53:24.
betting 27:4,	briefed 9:21,	24:23.	cite 7:7, 18:1,
27:6, 33:5.	9:22, 23:13,	Cc/devas 7:8,	35:2, 37:18,
big 27:12.	47:1.	7:22, 16:1,	37:19,
bigger 24:10.	briefing 29:8,	30:3.	39:11.
Bilateral 8:16,	29:12, 40:6,	certain 50:4.	City 37:23,
9:5, 14:11,	40:7, 41:10,	certainly	37:25,
21:13,	41:11, 41:19,	16:23.	38:24.
48:15.	42:1, 42:7,	certify 55:3.	CIVIL 1:5,
binder 37:21.	42:14, 52:14,	challenge	2:4.
binding	52:17, 52:18,	40:20.	claim 12:23,
19:19.	53:6.	chance 42:5.	44:12.
binds 30:22.	briefs 23:11.	changed 21:6.	claims 9:4,
BIT 12:21,	brought 18:6,	changes 51:22,	43:5.
17:20, 17:23,	18:7, 18:8,	52:1.	class 6:19,
21:2, 21:5,	18:9, 18:11,	Chashawn 53:4,	47:11.
22:20, 23:10,	36:22.	54:20.	clear 29:5,
23:24, 24:2,	Bruce 1:31,	cheat 10:10,	34:8, 34:22,
31:24, 34:9,	2:21.	15:6.	40:5,
38:11, 43:2,	built 50:15.	Chevron 33:3,	46:16.
43:3, 43:5,	buried 13:4.	33:5, 33:8,	clearly 12:8.
43:7, 43:14,	butter 24:8.	33:12, 33:14,	CLERK 2:4,
43:22, 46:1,	buzz 38:11.	33:16, 33:19,	54:3.
49:1, 49:5,	.	33:20, 34:12,	client 17:16,
49:8, 49:21,	.	34:24,	27:5, 31:9,
50:5,	< C >.	48:13.	54:8.
50:12.	C. 1:13, 1:18,	chicken/egg	clients 18:8.
Bits 50:12.	1:33, 1:44,	46:22,	close 39:12.
black 23:25.	7:9, 19:16,	46:23.	coin 51:7.
Blasket 26:14,	34:3, 49:14,	chocolate	colleague
26:15, 26:17,	49:20.	24:8.	35:14.
26:24, 26:25,	cake 22:16.	choice 25:17,	colleagues
30:25, 31:2,	call 2:2,	48:16, 49:8,	2:19, 53:10,
31:14, 31:17,	14:23, 21:12,	49:22,	53:14,
31:18,	45:8.	52:11.	54:13.
41:16.	called 11:7,	choose 26:13,	collect
body 36:5.	12:13, 12:18,	52:11.	16:20.
bold 46:17.	36:25, 37:1,	chose 12:8,	colloquy

32:25.	1:17, 26:8,	55:4.	34:22.
Columbia 1:2,	54:15.	counsel 2:9,	crystallized
16:3.	conferences	41:2, 42:3,	33:1.
comes 6:7,	44:15,	42:6.	Cube 7:24,
28:22.	51:12.	counterpart	16:1.
coming 52:23.	confess 29:5.	27:22.	cut 15:24.
comity 18:2,	confused 4:5.	countries	cut-off
18:6,	confusing	22:4.	43:19.
23:15.	27:22.	country 22:21,	cuts 22:22.
commentaries	Congratulations	46:3.	.
51:5.	17:21.	couple 42:23,	.
committed	consider 23:3,	52:4.	< D >.
12:19.	50:21,	course 5:23,	damages 43:19,
Company 1:5,	51:8.	11:4, 13:23,	43:24, 44:7,
2:5.	consideration	14:2, 14:10,	44:13,
Competence-comp	51:20.	17:14, 18:2,	45:1.
etence 47:3,	considerations	21:3, 21:17,	date 8:18,
47:5,	39:17.	26:11, 45:20,	8:23, 12:21,
48:19.	considered	49:17,	53:3.
complete 11:3,	21:16,	51:2.	dates 10:7.
18:15.	43:6.	Courts 4:22,	day 21:9,
completely	consistent	7:6, 8:1,	21:10.
46:9.	47:11.	14:8, 16:2,	de 5:3.
complicated	consolidated	16:3, 17:23,	dealer 52:11.
13:24,	31:5,	18:3, 30:16,	Deborah 2:19.
23:6.	31:14.	31:21, 32:1,	Debra 1:24.
complications	constitutes	35:9, 36:8,	decide 6:1,
16:13.	26:18.	37:15, 39:15,	15:10, 18:4,
complied	Constitution	39:25, 40:17,	20:14, 25:21,
26:7.	1:43.	43:9, 48:6.	26:13, 28:20,
compromise	Contemporanea	cover 38:12,	34:10, 41:11,
3:18, 4:3,	21:15,	38:14.	42:9, 44:10,
32:20,	42:25.	covered	46:7, 51:7,
41:14.	continued	22:25.	51:16, 52:20,
computer-aided	44:19.	COVID 13:25,	52:21,
1:49.	continuing	14:2, 38:6.	53:2.
concealing	43:18,	crazy 33:23.	decided 20:10,
12:20.	43:20.	crepe 54:18.	23:14, 25:9,
concede	continuity	Crimea 21:2,	26:14, 29:9,
35:18.	42:24.	21:4, 21:14,	29:20, 31:3,
concerns	contracts	21:16, 21:22,	32:13, 34:4,
39:25.	43:2.	21:23, 21:24,	43:14.
conclude	control 7:14.	22:6, 22:7,	decides 5:22,
10:2.	Convention	22:12, 22:17,	20:10, 26:25,
concluded 41:5,	5:25, 26:17,	22:23, 23:3,	30:4, 35:8.
55:1.	45:12, 45:16,	31:25, 43:3,	deciding 14:9,
concurrent	49:6.	43:5, 44:19,	16:7,
52:15.	converse	45:10.	19:10.
confer 42:7.	40:2.	cross 27:12.	decision 4:13,
Conference	correct 32:22,	crystal	4:15, 4:23,

14:13, 14:15, 19:8, 30:22, 34:25, 35:7, 37:10, 46:18, 46:21, 48:3, 48:5, 50:25, 51:3, 51:9.	determining 28:8, 32:1.	22:7.	eat 22:16, 22:17, 54:19.
decisions 48:9, 49:5, 50:11, 50:16, 51:4.	dial 53:19.	disputes 21:17.	economy 16:5. ECT 49:24.
deemed 8:22.	dial-ins 53:23.	dissolution 8:23.	Ecuador 33:20, 34:24.
Deer 38:21.	different 13:24, 17:18, 17:25, 21:14, 23:18, 33:11, 33:13, 33:15, 40:14.	distinction 41:7, 41:8.	effect 29:4, 37:8.
Defendant 1:31.	differentiate 44:3.	distinctions 39:14.	effective 8:23.
defer 9:11, 27:13, 30:11, 45:2, 46:8.	directly 15:2, 54:13.	District 1:1, 1:2, 1:19, 7:7, 8:2, 14:8, 14:20, 15:15, 15:18, 16:3, 24:23, 25:10, 31:13, 36:7, 40:17, 41:1, 50:25.	effectively 9:6, 9:21.
deference 5:3, 33:19.	disagree 5:8, 31:1, 35:14, 49:14.	doctrines 21:15.	either 13:3, 20:14, 36:16, 47:7, 49:5, 50:11.
delay 23:21, 24:11.	disagreement 33:2.	doctrine 47:2, 47:5, 47:9, 47:10.	elevator 42:12, 42:14, 42:16.
delays 13:24.	disclose 39:8.	doing 4:20, 6:6, 20:17, 52:23.	email 53:3.
delegated 46:18.	disclosed 12:23, 12:24, 13:6.	done 4:18, 16:11, 22:10, 51:18.	Emanuel 1:26, 2:11.
delegation 46:25, 47:22.	discretion 6:11.	Discussion 53:12.	En 19:12, 19:14, 19:17, 19:24, 19:25, 20:3, 20:12, 20:13.
deleted 52:1.	discussed 16:16.	drafts 39:19.	end 38:8.
denied 4:18, 13:10.	Dismissal 53:12.	due 25:8.	enforce 4:24, 5:13, 6:2, 7:10, 17:5.
Dennis 1:23, 2:10.	dismiss 9:17, 21:12, 42:22, 51:18, 51:24, 52:19.	during 8:21, 38:6, 38:20, 50:18.	enforcement 4:11, 17:6.
Department 27:2, 52:3.	disposition 29:4.	Dutch 14:22, 37:15, 45:10.	enforcing 48:20.
depending 14:17, 15:3, 15:13.	dispositive 32:19.	duty 5:17, 42:17, 42:19.	England 14:22.
described 40:12.	dispute 12:9, 13:3, 22:4, 24:3, 28:4, 28:6, 28:15, 29:10, 34:5, 34:6, 35:8, 42:20, 48:14, 48:17, 48:19.	. . < E >.	English 14:23, 14:24, 30:20.
designed 8:20.	disputed 21:25, 22:1, 22:3,	early 37:6.	enough 13:16, 14:3, 37:13, 37:14, 45:6.
desk 32:21.		earned 41:25.	entered 25:4, 37:6.
determination 5:2.			entertaining 48:7.
determine 5:17, 42:18, 42:19.			entirely
determined 28:15.			

29:5.	explained	27:2, 47:7,	foregoing
epicenter	12:2.	51:13, 51:14,	55:4.
16:5.	explains	52:7, 52:9.	Foreign 5:18,
equivalent	13:25.	filed 8:10,	8:3, 32:2.
50:6.	extend 37:5,	10:11, 11:7,	forget 9:1,
Esquire 1:23,	37:13.	12:12, 14:20,	23:22,
1:24, 1:25,	extended	23:9, 23:11,	31:3.
1:31, 1:32,	51:3.	23:12, 23:15,	formal 50:20.
1:33.	.	23:23, 24:3,	former 27:4,
essentially	.	24:18,	31:9.
45:15.	< F >.	52:2.	forth 8:19.
Europe 47:4.	fact 12:22,	filings	forums 17:19,
European 30:9,	28:2.	51:15.	17:25.
30:20.	facts 36:21.	filter 20:5.	forward 2:7,
Everybody 14:3,	Fair 23:5,	final 48:6,	32:24, 41:22,
14:11, 14:15,	45:6.	53:3.	42:13.
19:20.	falls 28:16.	finalized	found 13:6,
everyone	familiar 3:3,	53:6.	23:18, 29:10,
2:20.	16:4, 33:25,	finally	40:18.
everywhere	46:14,	43:14.	four 9:10,
16:21.	47:2.	find 27:22,	9:14, 9:19,
evidence	fascinating	39:13.	18:9, 18:10,
46:16.	43:8.	finding 35:9,	18:13, 18:19,
exact 45:9.	fast 13:16.	40:21.	20:23, 20:24,
Exactly 14:7,	FCRR 1:41,	finds 28:6,	23:9.
16:7, 23:11,	55:3.	34:6.	four-hour
27:8, 30:7,	Fed 17:16.	Fine 6:21,	53:5.
47:11.	Federal 1:42,	10:24,	fours 39:13.
excellent	24:5,	42:2.	fraud 12:20.
41:25.	45:19.	firm 2:24.	free 53:19,
exception 3:10,	Federation	first 9:22,	53:23, 53:25,
34:13.	1:11, 2:6,	10:22, 18:3,	54:15.
exclude 8:21.	2:22, 9:1,	23:15, 27:24,	French 6:8,
exclusive	9:15, 10:11,	32:7, 34:23,	10:16, 12:13,
46:24, 47:21,	11:6, 11:17,	37:7, 38:7,	18:2, 18:24,
47:22.	12:10, 12:12,	42:24, 47:6,	20:6.
exclusively	16:11, 18:5,	51:12.	friend 31:10.
46:17.	18:23, 21:5,	five 8:1, 9:10,	front 18:12,
Excuse 2:13,	23:12, 42:20,	9:15, 9:19,	21:21,
2:14, 11:12,	52:3.	10:17, 10:19,	31:7.
23:2, 30:25,	few 48:9.	10:21, 15:13,	FSIA 30:1,
37:21.	fight 41:9.	20:14.	30:11,
expect 15:3,	figure 19:4,	fixed 54:10.	30:23.
35:13.	41:11,	flipping	full 19:10.
expected 8:7.	53:3.	51:7.	fully 11:22,
expedited	figured	Floor 1:28.	20:16,
15:1.	54:11.	food 54:19.	23:13.
explain 8:11,	file 10:23,	for- 18:7.	fundamental
10:1,	14:5, 14:16,	force 25:18,	33:1, 33:3.
20:16.	26:9, 26:12,	25:20.	.

.	guys 6:9,	helps 48:2.	24:10, 24:20,
< G >.	37:22, 37:23,	hereby 55:3.	24:24, 32:2,
Gander 24:1.	40:6, 41:9,	High 14:23.	42:17,
Generally 4:21,	41:10, 41:11,	higher 9:6.	45:21.
4:22.	42:13, 44:16,	highest 9:7,	Immunity 16:4,
Geopolitical	45:3, 51:16,	36:25.	34:13.
43:8, 43:9.	52:17, 52:25,	highlight	implied 3:9.
gets 16:22,	53:17.	42:23.	important
26:16.	.	history 10:2,	45:20, 46:25,
getting	.	10:3.	48:16.
15:25.	< H >.	Hitler 27:12.	in-person
give 5:3, 10:2,	H. 1:23.	Hold 6:23,	42:4.
10:6, 10:8,	half 13:16,	11:19.	inclination
42:11,	13:19.	holding	41:21.
53:4.	hand-ups	35:11.	incorporates
gives 42:5.	10:6.	Honorable	45:15.
giving 14:6,	handled	1:18.	independent
27:7.	27:11.	Howell 37:12,	5:2, 5:17,
gloss 45:20.	happen 51:16,	37:13,	5:21, 30:12,
Goose 24:1.	52:15.	37:20.	42:17,
Gorsuch 33:20,	happened 8:13,	Hulley 36:13,	42:19.
35:7.	10:17, 12:5,	36:17, 39:10,	influence
gosh 6:9, 7:2,	14:7, 28:25,	39:11,	31:2.
12:5.	36:24, 38:8,	40:25.	influences
gotten 44:7.	40:24,	human 27:4.	30:22.
governed 48:14,	46:19.	humanly	information
48:15, 48:20,	happens 6:23,	30:15.	50:24.
48:22,	6:24, 15:4,	hypothetical	Infrared
48:23.	29:3.	44:18.	7:25.
Graham 31:7.	happy 26:8,	.	Infrastructure
grant 42:12.	32:14.	.	7:23, 7:24.
granted 10:12,	hard 38:16,	< I >.	initial 3:12,
39:16.	39:5.	Idaho 39:2.	21:12.
great 6:5,	hear 23:22,	idea 14:6,	initially
7:14, 9:13,	26:23, 28:7,	30:17, 41:14,	23:14.
38:17, 38:18,	36:2,	41:24.	insanity
42:4.	51:10.	ideal 52:22.	33:24.
greatly	heard 30:18,	ideally	instance
35:23.	50:5.	54:12.	37:8.
Grechishkina	hearing 3:23,	identify 2:7.	instead 19:9,
1:32.	30:18, 50:18,	idiot 39:22.	20:13.
groundless	52:22,	II 27:11,	instructive
35:10, 40:19,	53:16.	27:14.	36:17.
40:22.	heavily 33:4.	imagine	intend 26:9,
guess 22:18,	held 8:15,	43:24.	26:12.
23:17, 27:21,	9:8.	immemorial	intending
28:12.	help 12:14,	11:1, 11:3.	41:15.
guessing	47:25.	Immunities	interest 3:17,
30:14.	helpful 4:4,	5:18, 8:3,	4:2, 18:6,
guide 51:9.	48:1.	17:14, 24:6,	23:14,

32:20.	16:13, 23:21,	Kentucky	12:1.
interested	43:25.	12:15.	Lexus 50:6.
27:1.	involving 8:2,	kept 39:7.	limitations
interesting	45:9.	kettle 23:25.	28:18.
43:10.	Israel 21:9.	key 34:17,	Line 27:11,
International	italics	39:14.	27:12.
6:19, 22:14,	46:17.	kicked 3:7.	listen 47:6.
22:15, 23:7,	itself 5:22,	kill 38:11.	listened
48:9, 48:21,	9:3, 27:25,	knowledge	30:14.
48:22, 48:23,	49:5.	12:4.	Literally
49:2, 49:10,	.	known 47:3,	47:9.
49:11, 49:12,	.	47:4.	litigate 17:24,
49:18, 49:19,	< J >.	knows 52:2.	33:24.
49:23, 50:2,	joined 2:18.	.	litigated
50:6, 50:10,	Joint 1:5, 2:5,	.	49:18.
50:11.	52:22.	< L >.	litigating
interpret	Judge 1:19,	Labor 48:18.	17:18,
22:20,	7:22, 7:24,	Lake 37:25,	37:15.
43:1.	7:25, 15:12,	54:14.	litigation 3:5,
interpretation	15:15, 15:18,	Lamberth	17:15,
30:21.	31:4, 31:7,	7:23.	17:21.
interpreted	31:8, 31:9,	language 12:11,	little 13:24,
31:24.	31:11, 31:12,	40:14.	23:10, 23:24,
interpreting	37:12, 37:13,	larger 19:11,	24:2, 38:11,
43:1,	48:1, 48:3,	20:15.	49:21.
49:16.	50:18.	last 37:20.	live 20:21,
interrupt	judges 15:10,	later 9:6,	20:22, 38:20,
13:21,	16:15, 17:25,	17:5.	38:24.
34:18.	19:11, 20:14,	Laughter.	lived 9:16.
invest 22:24.	20:15, 23:16,	53:18.	LLC 1:34.
invested	23:17,	lawyer 20:7.	LLP 1:26.
43:22.	50:20.	lawyers 40:13,	located 53:11,
Investment	judicial	50:20.	53:15.
8:16, 9:5,	16:5.	layperson	lockdown
14:11, 21:13,	jurisdictional	30:18.	38:8.
22:25, 43:18,	8:18, 9:8,	learn 14:3.	London 53:11,
43:20, 44:3,	11:25, 18:24,	learned 24:7.	53:15, 53:17,
45:10, 46:3,	19:7, 20:20,	least 8:1,	54:13,
48:15.	20:25, 28:20,	14:19, 16:23,	54:19.
investments	40:9,	23:9, 29:2,	long 26:19.
8:17, 8:21,	42:14.	34:21,	longer 14:1,
12:20, 43:4,	jurisdictions	53:5.	14:18.
43:5, 43:15,	14:19.	leave 53:1.	look 6:9, 10:8,
44:10, 44:17,	Jus 50:7.	legal 22:15,	15:6, 27:10,
44:18,	Justice 33:19,	27:16.	28:24, 30:12,
44:20.	35:7.	Leon 31:4,	32:1, 40:15,
investor 17:17,	.	31:7.	45:7, 45:22,
22:23,	.	lesson 24:7.	47:6, 47:23,
22:24.	< K >.	letter 4:5,	49:2, 49:4,
involved 7:21,	keep 42:1.	11:24,	49:13, 50:2,

50:9, 50:10,	31:24, 32:14,	41:22,	nontoll
50:14,	32:22, 34:17,	42:13.	53:24.
50:15.	43:18, 45:4,	moved 18:8.	notice 10:19,
looked 16:2,	46:6, 46:9,	moving 16:12.	52:2.
50:3.	46:21, 47:9,	Moxie 31:10.	Nouvel 49:4.
looking 15:5,	48:24, 49:18,	Ms 2:2,	novo 5:4.
15:7, 16:10,	50:21.	53:15.	number 16:1,
23:22,	means 19:9,	multiple	21:18, 23:16,
49:15.	28:16.	26:15.	23:17, 24:7,
looks 51:4,	meet 42:5.	Mundi 50:7.	36:7, 37:14,
51:5, 51:8.	member 48:17.	myself 40:15.	53:20, 53:23,
lost 29:2.	members 54:4.	.	54:15.
lot 16:23,	mention 7:20.	.	Nutella
17:23, 24:23,	mentioned	< N >.	54:17.
27:9, 27:18,	47:1.	Naftogaz	NW 1:43.
36:4,	merely 26:17.	41:3.	NY 1:29.
46:11.	meritless	name 31:16.	.
lots 17:21.	46:9.	nature 45:22.	.
love 6:5.	merits 9:12,	Nearly 53:14.	< O >.
Lucky 17:16,	24:6, 25:21,	necessarily	O'gorman 1:24,
53:16.	28:1, 28:11,	17:7, 17:9,	2:19,
.	28:18, 28:22,	47:11.	53:15.
.	29:4, 34:11,	need 6:7, 40:6,	object 26:13.
< M >.	34:12, 34:15,	41:19,	objection
machine 1:48.	35:12, 35:13,	54:21.	11:25.
Madison 1:27.	35:16,	Netherlands	Obviously 6:8,
Maginot	48:25.	8:25, 14:20,	8:3, 17:14,
27:11.	mess 16:17.	36:23, 37:1,	23:21, 51:11,
Magistrate	military	37:10, 45:9,	51:15,
31:11.	27:13.	45:13,	52:9.
major 41:6.	mind 33:1,	45:14.	occurred
mandatory	39:18.	New 1:29, 5:25,	45:9.
27:23.	minute 3:3.	26:17, 37:24,	odd 26:19.
Maria 1:32.	missed 29:12.	45:12,	odds 27:7.
Market 1:35.	mix 24:8.	45:15.	offer 42:20.
mask 38:10,	money 43:25.	next 5:24.	office 37:22.
38:13.	morning 2:10,	nice 37:25.	Official 1:42,
massive	2:21.	No. 1:5, 5:7,	55:9.
15:24.	motion 9:16,	27:11, 39:5,	often 40:13.
matter 27:25,	11:10, 11:13,	46:24,	Once 14:15,
28:9, 28:14,	14:5, 21:12,	49:2.	16:22, 39:3,
28:17, 29:6,	26:9, 26:12,	nobody 34:5.	46:20.
29:9, 29:17,	27:7, 40:7,	nondispositive	ones 43:10.
32:17, 37:3,	42:21, 51:16,	26:12.	opening
55:5.	51:18, 51:19,	None 36:9,	47:20.
mean 3:16, 5:3,	51:23, 52:10,	39:24.	opinion 5:9,
5:7, 6:5,	52:17,	nonetheless	5:16, 7:9.
7:1, 13:2,	52:19.	26:20.	opposed
13:4, 13:18,	move 32:21,	nonimmunity	49:20.
27:9, 27:17,	32:23, 35:16,	24:25.	opposing 42:3,

42:5.	panoply	people 13:23,	37:11, 43:19,
opposite 4:19,	19:10.	15:19, 15:20,	53:13.
16:7,	paper 10:7.	49:14, 50:19,	points 27:10,
39:23.	papers 41:10.	54:2, 54:16,	27:18,
order 25:4,	parallel 45:19,	54:19.	41:25.
40:17,	47:11.	Per 28:15.	policy 16:2.
52:17.	Paraguay	perhaps 9:7,	popular
ordered	25:13.	36:17.	27:15.
25:10.	Paris 4:10,	period 8:22,	posed 30:10.
ordering	4:12, 4:18,	23:24,	position 3:16,
25:9.	6:5, 8:9,	24:4.	12:25, 22:12,
original	8:11, 9:9,	person 33:5.	22:13, 26:19,
42:21.	9:17, 9:20,	perspective	27:23.
Oschad 2:17.	13:14, 17:5,	34:21,	possible 30:16,
Oschadbank	18:13, 53:11,	34:22.	53:22.
2:12, 2:16,	53:15, 54:13,	persuasive	pot 23:24.
2:18, 8:17,	54:16.	23:18.	power 16:9.
12:19, 23:21,	Park 37:25,	petition 10:11,	Powerpoint
42:21,	38:24.	18:10, 23:23,	47:10.
43:22.	part 21:4.	24:3.	practice 45:7,
others 40:1.	participate	Petitioner 1:8,	50:19.
otherwise	9:2, 11:21,	2:11, 40:1.	practiced
42:6.	11:22, 11:23,	petitions	26:18.
ought 16:6.	12:2, 12:8,	14:10.	practices
outside 9:4,	12:10, 19:11,	phenomenal	14:12.
23:23, 24:4,	51:3, 54:12,	31:7.	pre-1992 44:17,
24:24.	54:14.	Philadelphia	44:18.
outstanding	participated	1:37.	Pre-motion
28:21.	11:18.	PIAD 25:9.	1:17, 26:8,
overwhelming	participating	piece 10:7.	51:12.
6:14, 6:16,	12:3.	piecemeal	precedence
6:17.	particular	20:18.	50:19.
own 5:2, 5:3,	47:23.	pincite 35:4.	precedent 6:14,
30:12,	particularly	place 37:6,	6:16, 6:17,
52:11.	15:11,	37:25.	50:14, 50:15,
.	16:3.	Plaintiff 1:23,	50:21,
.	parties 2:7,	2:8, 39:25.	50:22.
< P >.	8:11, 21:16,	play 17:10.	precedential
p.m. 21:8.	33:8, 34:3,	pleadings	36:14.
PA 1:37.	46:2, 46:16,	24:13,	prefer 4:2,
pages 52:4.	54:3.	24:16.	29:14,
paid 15:21.	past 28:13.	please 2:2,	35:23.
Palestine	pay 15:24,	2:7, 54:17.	preference
21:9.	53:17.	Plus 14:3,	32:23,
Pan 50:18.	peanut 24:8.	20:22.	52:14.
pandemic 37:24,	pending 6:4,	point 6:22,	prejudice
38:21.	8:5, 9:20,	21:11, 23:5,	47:7.
panel 19:9,	16:11, 21:19,	28:25, 30:8,	prejudices
19:16,	32:6, 36:7,	32:25, 33:3,	40:4.
20:15.	41:15.	36:3, 37:9,	prepare 48:2.

President 22:5.	provides 48:21.	realize 54:9.	refile 51:19.
prevent 6:6.	provision 49:9,	really 3:25,	refuse 22:22.
principles 43:1, 50:2.	50:4.	6:9, 22:19,	related 40:25.
prior 27:7.	purpose 8:22,	28:13, 29:7,	relay 54:14.
private 3:4.	17:14, 25:19,	34:20, 35:15,	relevant 3:8,
probably 27:15,	30:5.	41:19,	3:10.
43:9.	purposes 5:13,	43:8.	reliable 51:8.
problem 46:22,	5:14, 6:8,	reason 11:5,	rely 15:19,
46:23.	28:8, 30:11,	13:14, 16:12,	33:4, 43:1.
procedural	34:22.	17:13, 29:19,	remained 37:8.
10:2, 10:3.	put 34:21.	41:1, 41:3.	remanded 9:9,
procedure 15:1,	Putin 22:5.	reasonably 30:2.	37:3,
18:22, 19:5,	.	reasons 13:22,	45:11.
20:6, 20:7,	.	16:2, 21:14,	remember 4:17,
20:9.	< Q >.	42:21,	13:21, 15:6,
proceed 3:17,	question 4:22,	44:15.	31:15,
4:2, 40:3,	6:3, 9:13,	recall 23:10.	31:16.
52:10.	18:20, 20:17,	received 18:3.	Remind 2:24.
proceeding	20:19, 20:20,	recent 39:11.	rendered 8:6.
8:10, 16:10,	30:10, 33:9,	recently 30:3,	rendering 5:10.
23:9,	52:8, 53:8.	50:3.	renewed 13:13.
36:22.	questions 3:14,	recognition 14:9, 18:10,	replies 53:3.
Proceedings	50:18.	14:9, 18:10,	report 22:15,
1:48, 8:2,	quickly 41:22.	36:18.	49:4.
8:4, 8:8,	Quinn 1:26,	recognize 6:2,	Reported 1:41.
14:16, 14:17,	2:11,	17:23, 21:3,	Reporter 1:42,
14:18, 23:15,	53:17.	21:23, 22:23,	55:9.
32:6, 37:9,	quite 3:8,	22:24,	represent 2:22.
41:5, 55:1,	21:9,	44:2.	represented 3:4.
55:5.	21:10.	recognized 14:9,	request 3:12,
process 11:3.	.	16:25.	3:13.
produced	.	recognizes 16:14.	requests 39:16.
1:48.	< R >.	reconsider 45:11.	resolution 41:15.
Professor	raise 18:23,	reconsideration 11:11, 11:14,	resolve 13:7.
49:4.	24:9,	20:8.	resolved 37:16.
promptly	35:12.	record 2:8,	resort 38:7,
11:8.	raised 9:15.	15:5, 55:5.	39:6.
properly 29:4,	Rare 4:14,	record. 53:12.	resorts 38:10.
31:24, 44:12,	4:16.	recorded 1:48.	
48:13.	rather 35:16.	recover 43:21.	
proposed 4:2,	rationale 19:6,	refer 2:12.	
32:19.	32:7.		
protect 17:15,	re 11:5.		
25:6.	reach 28:1.		
protocol 6:1.	read 34:21,		
provide 48:2.	40:10.		
provided	reading 21:12.		
24:4.			

respect 25:8.	9:1, 9:15,	40:11,	36:22, 37:9,
respond 4:21.	10:11, 11:6,	46:14.	41:4, 47:7,
Respondent	11:17, 12:10,	School 6:19.	48:7,
1:13, 8:4.	12:12, 12:13,	scratch	50:16.
response 46:6,	16:11, 17:16,	51:23.	setting 8:14.
47:16.	18:5, 18:23,	se 28:15.	settled 28:3.
result 16:7.	21:4, 21:5,	season 38:8,	seven 42:21.
reversed 10:15,	21:16, 21:18,	38:9,	several 13:7.
37:2.	21:22, 21:23,	38:18.	shape 30:15.
review 5:4.	22:2, 22:7,	seat 4:9, 4:22,	sheet 10:10,
revision 11:7,	23:4, 23:12,	27:14, 36:22,	15:7.
12:18,	42:19, 43:3,	48:24.	shocked
13:9.	43:6, 52:3.	seats 27:15,	30:19.
revisit 35:9.	.	48:6.	Shocking
revisited	.	Second 13:20,	40:13.
28:8.	< S >.	16:13, 34:24,	short 3:21,
Reyes 1:18.	S-o-k-o-l-o-v	43:11, 43:13,	3:23, 9:16.
rich 53:17.	3:1.	50:9.	shorter
rid 51:15.	S. 4:17, 5:13,	secrets 39:7.	14:18.
roughly 23:9.	5:14, 16:20,	Section 28:16,	shorthand
round 9:22.	27:2, 32:1,	34:7,	1:48.
rounds 29:8,	35:9, 47:8,	45:19.	shortly 42:6.
29:11,	47:12, 47:13,	seem 13:19,	shot 18:3.
35:17.	48:8, 48:10,	32:15,	shouldn't
RPR 1:41,	48:14, 48:20,	48:4.	16:25.
55:3.	52:3.	seems 13:2,	side 14:16,
rule 8:7, 9:17,	sadly 14:3.	33:1, 41:6,	47:7.
13:15, 13:18,	Sales 35:3.	45:4.	sign 17:23.
26:7.	Salt 37:25,	seen 4:24,	signed 17:20,
ruled 8:12,	54:14.	49:22.	21:5, 21:15,
8:25, 9:3,	Samuel 1:31.	seized 10:16,	43:2, 43:7.
18:14.	satisfy	18:3, 28:6,	significant
rules 6:17,	27:25.	34:14.	21:1.
28:5, 34:5.	Savings 1:6,	sense 13:7,	signing
ruling 15:3,	2:5.	25:23.	26:17.
18:25.	saw 51:14.	sent 11:24,	Similar 9:16,
rulings	saying 6:4,	12:1.	36:21, 45:15,
36:14.	20:15, 25:5,	separate 36:5,	45:19, 50:4,
run 14:10.	47:5.	52:18.	50:12.
Russia 8:19,	says 6:7, 7:10,	sequence	six 8:1,
21:7, 22:1,	12:22, 34:12,	27:24.	25:1.
22:2, 22:12,	35:7, 43:15,	served 52:3.	six-hour
22:13, 22:23,	46:12, 46:15,	service 52:1.	3:23.
22:24, 36:6,	49:11,	set 8:4, 8:12,	ski 38:6, 38:8,
36:18, 37:5,	49:23.	9:3, 9:7,	38:19,
37:11, 39:15,	schedule 40:7,	10:11, 10:20,	39:5.
39:24,	41:10, 41:11,	13:12, 18:8,	skied 38:21,
40:3.	42:7, 53:1.	48:9, 53:4.	39:1.
Russian 1:11,	Schein 34:25,	set-aside	skier 38:2,
2:6, 2:22,	35:2, 35:3,	14:16, 32:6,	38:4.

skiing 38:9, 38:10.	7:24, 7:25, 16:16, 30:3,	41:4, 41:15, 42:9, 42:13,	22:14. supposed
smart 6:10.	30:8, 30:10,	51:16, 52:10,	16:12.
smiling 19:4.	32:7, 32:13,	52:18,	Supreme 14:22,
snow 38:18.	32:16, 32:19,	52:20.	19:15, 19:16,
Sokolov 1:34, 2:25.	36:5, 39:14,	stayed 8:2,	34:24, 35:3,
somebody 54:17.	39:15, 39:17, 49:25.	36:9, 36:11,	37:1, 37:2,
someone 15:23, 51:13.	speech 42:12, 42:14,	36:19, 37:14,	37:10, 40:20,
sometimes 14:17, 51:14.	42:16.	39:16, 39:17,	46:11, 46:13,
soon 26:5.	spend 38:1.	39:24, 40:2,	46:15,
sophisticated 27:16.	spending 36:4.	40:4.	46:22.
sorry 5:12, 15:16, 19:2, 20:17, 23:2, 29:1, 29:11, 29:12, 29:23, 32:11, 34:1, 38:3, 42:10.	squarely 35:10.	staying 11:1, 26:14, 28:22, 29:24, 41:24.	surprised 30:19.
sort 27:23, 42:11, 42:13.	Stabil 41:3.	stays 39:16.	system 27:16.
sought 41:4.	stage 5:25.	stenographic 55:4.	.
source 50:23, 50:24.	standard 6:11.	Stock 1:5, 2:5.	< T >.
sources 50:10, 50:11, 51:8.	star 31:6.	straight 28:19.	T. 1:41, 55:8.
Sovereign 5:18, 8:3, 8:4, 17:17, 17:24, 21:4, 22:13, 24:6, 25:10, 32:2, 34:13, 42:17, 45:21, 46:2.	start 14:22, 43:17.	strategy 27:14.	talked 30:13, 30:17.
sovereigns 17:15, 24:23.	started 35:25.	Street 1:35.	taught 6:20, 47:9.
Soviet 8:21, 8:23.	starting 2:8, 6:12, 51:23.	struck 26:19.	teach 6:19.
Spain 3:3, 3:4, 3:10, 3:22, 7:21, 7:23,	State 1:5, 2:5, 27:2, 52:3.	subject 27:25, 28:9, 28:14, 28:17, 29:9, 29:17.	team 53:11, 54:4.
	stated 30:2, 30:3.	subjected 17:18.	Teams 14:4.
	States 1:1, 1:19, 4:24, 28:2, 47:4, 53:20.	subjects 17:24.	teed 36:10.
	statute 24:15, 24:17, 28:18.	submit 35:12, 36:13, 39:12, 42:7, 42:8.	television 22:6.
	stay 3:9, 3:12, 3:13, 3:17, 3:21, 3:25, 6:4, 6:22, 7:18, 7:19, 26:4, 26:11, 29:21, 32:13, 32:23, 36:12, 36:14, 37:6, 37:8, 37:13, 40:7, 41:2,	submitted 22:14.	temporal 43:13.
		suggest 45:3.	term 10:15.
		suggesting 35:15, 35:22.	terms 27:14.
		Suite 1:36.	territory 21:4, 21:16, 21:18, 21:25, 22:2, 22:3, 22:13, 22:21, 23:4, 43:3, 43:6, 45:25, 46:1, 46:3.
		Sullivan 1:26, 1:33, 2:23, 7:25.	themselves 2:8.
		sum 28:12.	they've 9:20.
		Sun 39:1.	thinking 14:6, 23:20, 44:16.
		support	thinks 22:2, 48:1.

third 45:25.	52:7.	understanding	45:10.
Thomas 1:33,	tribunals	28:1, 33:3.	vacating
2:23.	50:15, 50:20,	understands	37:11.
though 17:10.	51:2, 51:5.	14:13,	Valley 38:21,
three 13:23,	true 7:4, 7:16,	14:15.	38:22,
15:12, 17:25,	17:22.	Understood	39:1.
20:14, 24:18,	trying 19:4,	35:22.	value 43:22.
27:1, 31:4,	25:10, 29:12,	undo 16:17,	VCLT 49:6.
53:5.	53:14.	16:18, 16:19,	version 42:12,
three-year	turns 16:14,	17:1, 17:6.	42:15.
23:24,	20:20.	undone 16:22.	versus 2:6.
24:4.	two 9:14,	unfair 40:1.	vested 28:4,
throughout	17:18, 17:24,	unfairly	33:9.
37:8.	21:15, 29:7,	40:4.	Vienna 49:6.
Timbuktu	29:11, 34:20,	Unfortunately	view 25:22,
27:18.	35:17, 40:25,	31:8, 31:9.	44:20.
timely 12:12,	52:10, 52:22,	Union 8:23,	views 16:6,
13:13,	53:5.	48:17.	36:14.
23:12.	type 15:10,	unique 45:22.	violate 25:7.
Today 14:2,	21:19,	United 1:1,	Virginia
22:6, 42:1,	49:20.	1:19, 4:24,	12:16.
43:11, 51:21,	typically	28:2, 47:3,	visiting 6:5.
54:10.	32:5.	53:20.	vs 1:9.
together 13:23,	.	unlikely	.
40:6, 42:2.	.	27:19.	.
toll 53:19,	< U >.	unmistakable	< W >.
53:23,	Ukraine 1:6,	46:16.	wait 15:19,
54:15.	2:5, 8:20,	unnecessary	18:1.
tonight 54:17,	21:3, 21:7,	17:15.	waiting 10:20,
54:20.	21:17, 21:23,	unprecedented	10:22.
took 10:19,	22:22, 22:24,	4:16.	waiver 26:18.
13:6, 13:22,	23:1, 23:2,	until 6:23,	wanted 10:6,
14:1, 15:5,	23:3, 41:1.	11:1, 14:10,	20:17,
15:9, 15:23,	Ukraine 22:4.	26:14, 28:22,	42:10.
39:18.	ultimately 6:2,	32:13,	wants 19:18.
touch 45:1.	14:21,	37:24.	War 27:11,
Transcript	29:3.	upheld 4:18.	27:14.
1:17, 1:48,	unanimously	upholds 7:1.	Washington
39:8, 55:4.	8:2.	Urquhart	1:13, 1:44.
transcription	UNCITRAL 28:5,	1:26.	wasting 6:24.
1:49.	34:5.	utterly	ways 9:14,
Treaties	underlined	35:10.	40:14,
49:7.	46:17.	.	52:10.
Treaty 8:17,	understand 3:9,	.	wear 38:12,
8:18, 8:20,	4:12, 12:7,	< V >.	38:13.
9:5, 14:11,	27:22, 27:23,	v. 24:1, 33:20,	weeks 53:6.
21:13, 43:1,	29:16, 33:16,	34:24,	Welcome 2:20.
48:15,	37:16, 46:22,	35:3.	West 12:16.
48:21.	50:13, 50:19,	vacated 36:23,	Westlaw 39:11,
tremendous	51:10.	37:7, 37:10,	49:19.

Whatever 6:4,	without 3:17,
6:5, 6:6,	12:4, 47:7,
6:23, 7:13,	51:15,
10:8, 10:23,	52:7.
14:23, 14:25,	wore 38:10.
15:15, 15:18,	work 51:18,
43:22, 44:12,	52:7, 52:25,
53:1,	53:1, 53:2,
54:20.	54:20.
whereas 28:3.	World 16:21,
whether 5:6,	27:11, 27:14,
5:17, 6:2,	27:16,
18:4, 21:2,	45:8.
26:16, 26:17,	worried 4:19.
28:3, 28:8,	worry 40:15.
29:4, 29:8,	.
30:21, 30:22,	.
31:18, 32:2,	< Y >.
33:10, 34:13,	Yale 6:19.
34:14, 34:23,	year 9:5,
35:15, 40:17,	13:15, 13:19,
42:18, 42:19,	15:3, 15:8,
46:7.	15:9, 38:7,
whichever	39:6.
46:3.	years 6:24,
White 2:2,	10:19, 10:21,
35:3.	13:7, 18:10,
whole 16:15,	23:9, 24:18,
16:17, 29:22,	37:14.
29:23, 30:5,	yesterday
32:25,	4:5.
36:5.	York 1:29,
wholly 40:18,	5:25, 26:17,
40:21.	37:24, 45:12,
wildly 40:14.	45:16.
Will 2:7, 6:8,	Yvonne 1:25,
13:18, 27:5,	2:19.
29:5, 35:13,	.
41:21, 42:9,	.
45:6, 47:1,	< Z >.
47:25, 48:3,	Zhang 1:25,
52:20,	2:19,
54:17.	53:15.
willing 3:20.	Zoom 14:3,
win 26:22,	53:21,
35:13.	54:1.
wins 46:23.	
within 13:15,	
13:18, 15:3,	
28:16.	