



## International Arbitration & Dispute Resolution ADVISORY ■

**OCTOBER 28, 2019**

### Eleventh Circuit Provides Smooth Sailing for International Arbitration Clauses

On October 17, 2019, the Eleventh Circuit denied a petition to vacate or alternatively deny recognition and enforcement of an arbitral award, refusing to apply the New York Convention's "public policy" exception. The Eleventh Circuit's ruling in [\*Cvoro v. Carnival Corp.\*](#), No. 18-11815 (2019), is in line with its past precedents favoring recognition and enforcement of international arbitration awards.

The case is about a Serbian woman, Sladjana Cvoro, who worked for Carnival Cruise Lines and developed carpal tunnel while waiting on tables. The ship's doctors treated her condition, but it worsened. Carnival then paid for her to return to Serbia, where she was treated by Carnival-selected doctors. But a surgery left her with permanent disabilities in her left arm. As a result, Cvoro alleged that the Serbian doctor was negligent and caused her to suffer ongoing pain.

When Cvoro was hired by Carnival, a Panamanian corporation, Cvoro's employment agreement contained a mandatory arbitration clause. Cvoro initiated arbitration in Monaco for disability payments. Even though the arbitration agreement required the application of Panamanian law, Cvoro brought her claims under the U.S. Jones Act, which affords seamen a cause of action against their employer.

The arbitrator rejected the Jones Act claim and applied Panamanian law, ruling that Cvoro's claims failed because Carnival had met its obligations to her by paying for her medical expenses. Cvoro brought a petition to vacate the award or alternatively deny recognition and enforcement, arguing that Panamanian law did not afford her the same remedies the Jones Act would, therefore violating U.S. public policy and rendering the award infirm under the New York Convention. The district court denied the petition, and the Eleventh Circuit affirmed.

The Eleventh Circuit noted that it "has never addressed at this arbitration-award-enforcement stage whether depriving a seaman of a Jones Act remedy violates U.S. public policy for purposes of the [New York Convention] defense." Both U.S. Supreme Court and Eleventh Circuit precedent favor the enforcement of choice-of-law provisions in arbitration clauses even when the foreign law can result in remedies different from those available under U.S. law.

This advisory is published by Alston & Bird LLP to provide a summary of significant developments to our clients and friends. It is intended to be informational and does not constitute legal advice regarding any specific situation. This material may also be considered attorney advertising under court rules of certain jurisdictions.

The court concluded that even if remedies under Panamanian law are less favorable than those available under U.S. law, the arbitrator's award did not violate U.S. policy for two main reasons. First, Cvoro was not disadvantaged by the arbitrator's decision to apply Panamanian law because Carnival had met its obligations under Panamanian law by paying for her medical costs and because these are the benefits she would be entitled to under U.S. law anyway. Secondly, the panel said that Cvoro did not avail herself of any of the other remedies available under Panamanian law specifically for seafarers.

Ultimately, this case reaffirms the Eleventh Circuit's support for awards rendered in international arbitration pursuant to valid, mutually-agreed-upon arbitration provisions without allowing a broad interpretation of the New York Convention's public-policy defense to erode such support.

You can subscribe to future advisories and other Alston & Bird publications by completing our [publications subscription form](#).

If you have any questions or would like additional information, please contact your Alston & Bird attorney or any of the following:

Matthew D. Richardson  
Co-Chair  
404.881.4478  
matt.richardson@alston.com

Alexander Yanos  
Co-Chair  
212.210.9584  
202.239.3584  
alex.yanos@alston.com

Kristen K. Bromberek  
404.881.4928  
kristen.bromberek@alston.com

Jonathan D. Parente  
404.881.7184  
jonathan.parente@alston.com

Alexander G. Brown  
404.881.7943  
alex.brown@alston.com

Carlos Ramos-Mrosovsky  
212.210.9585  
202.239.3856  
carlos.ramos-mrosovsky@alston.com

Steven R. Campbell  
212.210.9429  
steven.campbell@alston.com

Mike H. Shanlever  
404.881.7619  
mike.shanlever@alston.com

Lee A. Deneen  
404.881.7877  
lee.deneen@alston.com

Helen Su  
650.838.2032  
86.10.85927588  
helen.su@alston.com

Karl Geercken  
212.210.9471  
karl.geercken@alston.com

Andrew J. Tuck  
404.881.7134  
andy.tuck@alston.com

William H. Hughes, Jr.  
404.881.7273  
bill.hughes@alston.com

Amanda M. Waide  
404.881.4409  
amanda.waide@alston.com

# ALSTON & BIRD

WWW.ALSTON.COM

© ALSTON & BIRD LLP 2019

ATLANTA: One Atlantic Center ■ 1201 West Peachtree Street ■ Atlanta, Georgia, USA, 30309-3424 ■ 404.881.7000 ■ Fax: 404.881.7777  
BEIJING: Hanwei Plaza West Wing ■ Suite 21B2 ■ No. 7 Guanghua Road ■ Chaoyang District ■ Beijing, 100004 CN ■ +86 10 8592 7500  
BRUSSELS: Level 20 Bastion Tower ■ Place du Champ de Mars ■ B-1050 Brussels, BE ■ +32 2 550 3700 ■ Fax: +32 2 550 3719  
CHARLOTTE: Bank of America Plaza ■ 101 South Tryon Street ■ Suite 4000 ■ Charlotte, North Carolina, USA, 28280-4000 ■ 704.444.1000 ■ Fax: 704.444.1111  
DALLAS: Chase Tower ■ 2200 Ross Avenue ■ Suite 2300 ■ Dallas, Texas, USA, 75201 ■ 214.922.3400 ■ Fax: 214.922.3899  
LONDON: 5th Floor, Octagon Point, St. Paul's ■ 5 Cheapside ■ London, EC2V 6AA, UK ■ +44.0.20.3823.2225  
LOS ANGELES: 333 South Hope Street ■ 16th Floor ■ Los Angeles, California, USA, 90071-3004 ■ 213.576.1000 ■ Fax: 213.576.1100  
NEW YORK: 90 Park Avenue ■ 15th Floor ■ New York, New York, USA, 10016-1387 ■ 212.210.9400 ■ Fax: 212.210.9444  
RALEIGH: 555 Fayetteville Street ■ Suite 600 ■ Raleigh, North Carolina, USA, 27601-3034 ■ 919.862.2200 ■ Fax: 919.862.2260  
SAN FRANCISCO: 560 Mission Street ■ Suite 2100 ■ San Francisco, California, USA, 94105-0912 ■ 415.243.1000 ■ Fax: 415.243.1001  
SILICON VALLEY: 1950 Page Mill Road ■ Palo Alto, California, USA 94304-1012 ■ 650.838.2000 ■ Fax: 650.838.2001  
WASHINGTON, DC: The Atlantic Building ■ 950 F Street, NW ■ Washington, DC, USA, 20004-1404 ■ 202.239.3300 ■ Fax: 202.239.3333