



Columbia in *Concesionaria Dominicana de Autopistas y Carreteras, S.A. v. Dominican State* not only joined the Ninth Circuit in holding that fees are recoverable when seeking confirmation of an international arbitration award, but also awarded the sum of \$324,932.76 in attorneys' fees and costs. *Concesionaria*, 2013 WL 646475 at *2-3 (D.D.C. Feb. 22, 2013).

In *Concesionaria*, the underlying arbitration award had been issued in January 2012; a subsequent addendum issued in May 2012. *Id.* at *2. In June 2012, *Concesionaria* made several attempts to secure assurances from the Dominican Republic that it would honor the award. *Id.* Although the Dominican Republic acknowledged receipt of the requests, it failed to substantially respond. Furthermore, once the confirmation proceedings began, the Dominican Republic refused to participate in the confirmation proceedings, resulting in the entry of a default judgment. *Id.* The Court condemned that behavior, saying, "[s]imply put, the Dominican Republic has ignored CODACSA's arbitral award, and the Court finds that this inaction is inherently unjustified and in bad faith." *Id.*

Consequently, the Court justified its award of attorneys' fees and costs, noting "at first blush, \$324,932.76 in fees and costs seems an exorbitant amount to spend on a relatively perfunctory proceeding to confirm an arbitration award . . . Nevertheless, the Court has conducted an independent review of CODACSA's submissions and has satisfied itself that the scope of CODACSA's request is fair and reasonable, particularly given the complexity of the issues involved in this case and the international implications of CODACSA's arbitral award." *Id.* at 3.

Concesionaria not only demonstrates that courts are increasingly prepared to make the losing party pay the fees incurred by the prevailing party in a confirmation proceeding, but also confirms that the fees to be awarded, if properly documented, can be substantial. Parties who consider initiating a meritless challenge to an award, or who wish to ignore an arbitral award, should heed the Court's warning: you may be penalized for your failure to voluntarily pay the award.

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