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RECENT DEVELOPMENTS
IN INTERNATIONAL LITIGATION

*Mark E. Wojcik**

I. Foreign Sovereign Immunities Act.....	505
II. International Organizations Immunities Act	507
III. Alien Tort Statute.....	508
IV. Hague Service Convention.....	510
V. Hague Evidence Convention.....	510
VI. Obtaining Discovery for Use in Foreign or International Tribunals.....	510
VII. Recognition and Enforcement of Foreign Arbitral Awards.....	511
VIII. Hague Convention on Choice of Court Agreements	511
IX. Singapore Convention on Mediation.....	513
X. Enforcing Foreign Defamation Judgments.....	513

This article surveys selected developments in international litigation during 2020.

I. FOREIGN SOVEREIGN IMMUNITIES ACT

The Foreign Sovereign Immunity Act (FSIA)¹ provides the sole basis for asserting jurisdiction over foreign nations in United States courts.² The FSIA grants foreign nations, their political subdivisions, and their agencies and instrumentalities “immunity from suit in the United States (called jurisdictional immunity) and grants their property immunity from

1. 28 U.S.C. §§ 1602–1611.

2. *Jenner v. Arab Bank PLC*, 138 S. Ct. 1386, 1426 (2018); *Saudi Arabia v. Nelson*, 507 U.S. 349, 355 (1993); *Rukoro v. Federal Republic of Germany*, 976 F.3d 218, 223 (2d Cir. 2020).

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attachment and execution in satisfaction of judgments.”³ The FSIA “establishes a comprehensive framework for determining whether a court in this country, state or federal, may exercise jurisdiction over a foreign state.”⁴

“Under the FSIA, a foreign state is immune from the jurisdiction of courts [in the United States] unless one of several enumerated exceptions to immunity applies.”⁵ These exceptions include, for example, an exception for when a foreign entity is engaged in a “commercial activity carried on in in the United States by the foreign state” or “an act performed in the United States in connection with a commercial activity of the foreign state elsewhere,” and the lawsuit relates directly to that commercial activity.⁶ Another exception to the FSIA allowed suits against state sponsors of terrorism. “If a suit falls within one of these exceptions, the FSIA provides subject-matter jurisdiction in federal district courts.”⁷

In 2020, the U.S. Supreme Court ruled unanimously that amendments made to the FSIA in 2008 allowed plaintiffs to seek punitive damages from a state sponsor of terrorism for actions that arose before the FSIA was amended. Specifically, the Supreme Court held that plaintiffs could use the FSIA to sue the Republic of Sudan for its support of al Qaeda in the 1988 bombings of the U.S. embassies in in Kenya and Tanzania.

*Opati v. Republic of Sudan*⁸ involved lawsuits filed after al Qaeda operatives simultaneously bombed the U.S. embassies in Kenya and Tanzania. More than 200 people died and thousands more were injured in these attacks. When victims and their families were finally able to have their day in court, they proved that the Republic of Sudan “had knowingly served as a safe haven” near the embassies, that Sudan had provided al Qaeda with hundreds of Sudanese passports, and that Sudan allowed the passage of weapons and money to al Qaeda’s cell in Kenya. “[A]fter adding a substantial amount of prejudgment interest to account for the many years of delay, the district court awarded a total of approximately \$10.2 billion in damages, including roughly \$4.3 billion in punitive damages to plaintiffs who had brought suit” using the 2008 amendments to the FSIA, which allowed punitive damages against state sponsors of terrorism.⁹ Sudan appealed, arguing that amendments made in 2008 should not apply to events that

3. Rubin v. Islamic Republic of Iran, 138 S. Ct. 816, 829 (2018).

4. Terenkian v. Republic of Iraq, 694 F.3d 1122, 1127 (9th Cir. 2012) (quoting Republic of Argentina v. Weltover, 504 U.S. 607, 610 (1992)).

5. Republic of Sudan v. Harrison, 139 S. Ct. 1048, 1053 (2019); see also Genetic Veterinary Scis., Inc. v. Laboklin GMBH & Co. KG, 933 F.3d 1302, 1312 (Fed. Cir. 2019).

6. 28 U.S.C. § 1608(a)(2); see, e.g., *Genetic Veterinary Scis.*, 933 F.3d at 1312

7. *Harrison*, 139 S. Ct. at 1053.

8. 140 S. Ct. 1601 (2020).

9. *Id.* at 1607.

took place in 1998.¹⁰ The U.S. Court of Appeals for the District of Columbia agreed with the Republic of Sudan and held that although the amended FSIA allowed for punitive damages, Congress did not clearly state that the amendments applied to conduct that took place before the FSIA was amended.¹¹ The Supreme Court vacated the federal appellate court opinion, finding that the plaintiffs could pursue their punitive damage claim against Sudan. The Supreme Court held unanimously that “Congress was as clear as it could have been when it authorized plaintiffs to seek and win punitive damages for past conduct”¹²

In another FSIA case decided in 2020, the Second Circuit affirmed the dismissal of a putative class action against the Federal Republic of Germany seeking damages “for the enslavement and genocide of the Ovaherero and Nama peoples in what is now Namibia, as well as for property they alleged Germany expropriated from the land and peoples.”¹³ Finding no applicable exception in the FSIA, the court in *Rukoro v. Federal Republic of Germany* concluded that “[t]he terrible wrongs elucidated in Plaintiffs’ complaint must be addressed through a vehicle other than the U.S. court system.” A petition for writ of certiorari is pending before the U.S. Supreme Court.

II. INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT

“The International Organizations Immunities Act [(IOIA)] of 1945 grants international organizations such as the World Bank and the World Health Organization the ‘same immunity from suit . . . as is enjoyed by foreign governments.’”¹⁴ When the IOIA was enacted in 1945, however, “foreign governments enjoyed virtual immunity” in the courts of the United States.¹⁵ Until 1952, the U.S. State Department “generally held the position that foreign states enjoyed absolute immunity from all actions in the United States.”¹⁶ Today, however, sovereign immunity is subject to several exceptions.¹⁷ A foreign state is not immune from jurisdiction today if an

10. *Id.*

11. *Owens v. Republic of Sudan*, 864 F.3d 751 (D.C. Cir. 2017).

12. *Opati*, 140 S. Ct. at 1608. The Supreme Court found that “Congress proceeded in two equally evident steps: (1) It expressly authorized punitive damages under a new cause of action; and (2) it explicitly made that new cause of action available to remedy certain past acts of terrorism. Neither step presents any ambiguity” *Id.* at 1609.

13. *Rukoro v. Federal Republic of Germany*, 976 F.3d 218, 221 (2d Cir. 2020).

14. *Jam v. Int’l Fin. Corp.*, 139 S. Ct. 759, 764 (2019) (quoting 22 U.S.C. § 2808a(b)); see also *Construction and Application of International Organizations Immunities Act*, 22 U.S.C.A. §§ 288 et seq. (IOIA), 43 A.L.R. Fed. 2d 659 (2010 & Supp. 2020).

15. *Jam*, 139 S. Ct. at 765.

16. *Rubin v. Islamic Republic of Iran*, 138 S. Ct. 816, 829 (2018).

17. *Jam*, 139 S. Ct. at 765

exception to immunity applies under the FSIA.¹⁸ Exceptions include cases based upon commercial activities that the foreign state carried out in the United States and cases against foreign states that have been designated as a state sponsor of terrorism and damages are sought based on acts of terrorism.¹⁹

In 2019, the U.S. Supreme Court ruled in *Jam v. International Finance Corporation*²⁰ that because the IOIA “grants international organizations the ‘same immunity’ from suit ‘as is enjoyed by foreign governments’ at any given time,” the FSIA “governs the immunity of international organizations.”²¹ Resolving a split between the federal circuit courts, the U.S. Supreme Court stated that the IOIA was “best understood to make international organization immunity and foreign sovereign immunity continuously equivalent”²² and that “[t]he IOIA should . . . be understood to link the law of international organization immunity to the law of foreign sovereign immunity, so that the one develops in tandem with the other.”²³ There appear to have been no new cases under the IOIA in 2020.

III. ALIEN TORT STATUTE

The Alien Tort Statute (“ATS”) provides federal district courts “original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States.”²⁴ The ATS was first passed in 1789 and it largely remained unused until plaintiffs began to challenge actions of U.S. multinational corporations that caused harm around the world. These ATS cases alleged human rights violations and environmental damage.

Following some successes using the ATS in lower courts, a series of decisions from the U.S. Supreme Court seemed to close off further use of the ATS as a tool to remedy human rights violations and to protect the environment. First, in *Sosa v. Alvarez-Machain*,²⁵ the Supreme Court held that the ATS should be limited to only a modest number of international law violations such as “violation of safe conducts, infringement of the rights of ambassadors, and piracy.”²⁶ Second, in *Kiobel v. Royal Dutch Petroleum*

18. *Republic of Sudan v. Harrison*, 139 S. Ct. 1048, 1053 (2019).

19. *Rubin*, 138 S. Ct. at 822.

20. 139 S. Ct. 759 (2019).

21. *Id.* at 772. The Supreme Court vote was 7-1, with Justice Breyer dissenting. Justice Kavanaugh did not take part in the consideration or decision of the case.

22. *Jam*, 139 S. Ct. at 768.

23. *Id.* at 769.

24. 28 U.S.C. § 1350.

25. 542 U.S. 692 (2004).

26. *Id.* at 724.

Company,²⁷ the Supreme Court ruled that the ATS applied only to violations of international law occurring within the United States. And third, in *Jesner v. Arab Bank PLC*,²⁸ the Supreme Court held that courts should not extend ATS liability to foreign corporations without further Congressional authorization. The Supreme Court's decisions in *Sosa*, *Kiobel*, and *Jesner* severely limited the reach of the ATS.

In 2019, a federal circuit court's denial of rehearing *en banc* restored some hope for using the ATS to remedy human violations. The case involved child slaves who were forced to harvest cocoa in the Republic of Côte d'Ivoire (the Ivory Coast).²⁹ The child slaves "were forced to work on Ivorian cocoa plantations for up to fourteen hours per day six days a week, given only scraps of food to eat, and whipped and beaten by overseers."³⁰ The children and others "were locked in small rooms at night and not permitted to leave the plantations, knowing that children who tried to escape would be beaten or tortured."³¹ The children filed ATS claims against Nestlé USA, Inc., Archer Daniels Midland Company, Cargill Incorporated Company, and Cargill Cocoa, alleging that these corporations aided and abetted child slavery by providing financial and technical assistance to Ivorian farmers.³² Because the allegations also indicated domestic conduct within the United States, the Ninth Circuit allowed the former child slave to proceed with their ATS claims against the corporations for aiding and abetting child slavery.³³ After the Ninth Circuit denied rehearing *en banc*,³⁴ the case was appealed to the U.S. Supreme Court.³⁵ Oral argument in *Nestlé USA, Inc., v. Doe I* was held on December 1, 2020.³⁶

27. 569 U.S. 108 (2012).

28. 138 S. Ct. 1386 (2018).

29. *Doe I v. Nestlé USA, Inc.*, 766 F.3d 1013, 1016 (9th Cir. 2014), *cert. denied*, 136 S. Ct. 798 (2016).

30. *Id.* at 1017.

31. *Id.*

32. *Id.* at 1016. "The financial assistance includes advanced payment for cocoa and spending money for the farmers' personal use. The technical support includes equipment and training in growing techniques, fermentation techniques, farm maintenance, and appropriate labor practices." *Id.* at 1017.

33. *Doe I v. Nestlé, S.A.*, 929 F.3d 623 (9th Cir. 2019).

34. See Perry Cooper, *Nestle Won't Get Full Ninth Circuit Review of Slave Labor Case*, BLOOMBERG L. (July 5, 2019), available at <https://biglawbusiness.com/nestle-wont-get-full-ninth-circuit-review-of-slave-labor-case>.

35. *Nestlé USA, Inc., v. Doe I*, No. 19-416.

36. An audio recording of the oral argument is available online at https://www.supremecourt.gov/oral_arguments/audio/2020/19-416. The transcript of the oral argument is available online at https://www.supremecourt.gov/oral_arguments/argument_transcripts/2020/19-416_3ebh.pdf.

IV. HAGUE SERVICE CONVENTION

The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (the “Hague Service Convention”)³⁷ is a multilateral treaty that gives litigants an easy and reliable way to serve legal documents in other countries that are parties to the treaty, without having to use consular or diplomatic channels. In 2020, the number of contracting parties to the Hague Service Convention increased to 78 with the additions of Austria,³⁸ Nicaragua,³⁹ and the Philippines.⁴⁰

V. HAGUE EVIDENCE CONVENTION

The Hague Convention of 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters (the “Hague Evidence Convention”)⁴¹ is a multilateral treaty that allows requests for evidence to be sent between countries without recourse to consular and diplomatic channels. In 2020, the number of contracting parties increased to 63 with the addition of Viet Nam.⁴²

VI. OBTAINING DISCOVERY FOR USE IN FOREIGN OR INTERNATIONAL TRIBUNALS

Federal law allows an “interested person” to obtain discovery in the United States for use before a foreign or international tribunal.⁴³ 28 U.S.C. § 1782 allows a federal district court to facilitate the taking of testimony or collection of evidence from a person who resides or is found in that district.⁴⁴ “The order may be made pursuant to a letter rogatory issued, or request made, by a foreign or international tribunal or upon the application of any interested person”⁴⁵ A person may not be compelled to testify or produce evidence in violation of any legally applicable privilege.⁴⁶

A court can deny a section 1782 application when the applicants cannot show that they can use the evidence that they seek to obtain. Likewise, if a foreign or international tribunal would reject the evidence obtained through section 1782, there is no reason for a federal district court to grant discovery under section 1782.

37. T.I.A.S. No. 6638, 20 U.S.T. 361.

38. The Hague Service Convention entered into effect for Austria on September 12, 2020.

39. The Hague Service Convention entered into effect for Nicaragua on February 1, 2020.

40. The Hague Service Convention entered into effect for the Philippines on October 1, 2020.

41. T.I.A.S. No. 7444, 23 U.S.T. 2555.

42. The Hague Evidence Convention entered into effect for Viet Nam on May 3, 2020.

43. 28 U.S.C. § 1782.

44. *Id.*

45. *Id.*

46. *Id.*

The federal circuit courts have split on the issue of whether the statutory language “foreign or international tribunals” extends to private international arbitration tribunals. Normally discovery is not even available in an arbitration, but section 1782(a) might provide a way to obtain discovery if the evidence sought is in the United States. The Second,⁴⁷ Fifth,⁴⁸ and Seventh⁴⁹ Circuits hold that section 1782(a) cannot be used to aid private international arbitration proceedings. The Fourth⁵⁰ and Sixth⁵¹ Circuits hold that it can be used for private international arbitration proceedings.⁵² On March 22, 2021, the U.S. Supreme Court granted certiorari to resolve the circuit split as to whether federal district courts have the discretion to order discovery for private international arbitration proceedings.⁵³

VII. RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS

In 2020, the number of state parties to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards⁵⁴ increased to 165 with the additions of Ethiopia,⁵⁵ the Republic of Palau,⁵⁶ Seychelles,⁵⁷ and the Kingdom of Tonga.⁵⁸ In 2021, the Convention will enter into effect for Belize, Malawi, and Sierra Leone.

VIII. HAGUE CONVENTION ON CHOICE OF COURT AGREEMENTS

Unlike the U.N. Convention on Recognition and Enforcement of Foreign Arbitral Awards of that requires the recognition and enforcement of foreign arbitration awards, no international treaty mandates the recognition of foreign court judgments in courts of the United States. However, if

47. See *In re* Application of Hanwei Guo for an Order to Take Discovery for Use in a Foreign Proceeding Pursuant to 28 U.S.C. § 1782, 965 F.3d 96 (2d Cir. 2020); *Nat'l Broad. Co. v. Bear Sterns & Co.*, 165 F.3d 184 (2d Cir. 1999).

48. See *Republic of Kazakhstan v. Biedermann Int'l*, 168 F.3d 880 (5th Cir. 1999).

49. See *Servotronics, Inc. v. Rolls-Royce PLC*, 975 F.3d 689 (7th Cir. 2020).

50. See *Servotronics, Inc. v. Boeing Co.*, 954 F.3d 209 (4th Cir. 2020).

51. See *Abdul Latif Jameel Transp. Co. v. FedEx Corp.*, 939 F.3d 710 (6th Cir. 2019).

52. See *id.* at 720 (“American jurists and lawyers have long used the word ‘tribunal’ in its broader sense: a sense that includes private, contracted-for commercial arbitral panels.”).

53. *Servotronics, Inc. v. Rolls-Royce PLC*, No. 20-794 (U.S. Mar. 22, 2021). The question presented is “[w]hether the discretion granted to district courts in 28 U.S.C. 1782(a) to render assistance in gathering evidence for use in ‘a foreign or international tribunal’ encompasses private commercial arbitral tribunals, as the Fourth and Sixth Circuits have held, or excludes such tribunals without expressing an exclusionary intent, as the Second, Fifth, and . . . Seventh Circuit have held.”

54. June 10, 1958, 21 U.S.T. 2517, 330 U.N.T.S. 38.

55. The Convention entered into effect for Ethiopia on November 22, 2020.

56. The Convention entered into effect for Palau on June 29, 2020.

57. The Convention entered into effect for Seychelles on May 3, 2020.

58. The Convention entered into effect for Tonga on September 10, 2020.

ratified by the United States, the Hague Convention on Choice of Court Agreements (“HCCCA”)⁵⁹ would require U.S. courts to recognize foreign judgments from countries that are parties to the treaty.

The HCCCA was concluded in 2005 and entered into force on October 1, 2015.⁶⁰ Under Article 5 of the HCCCA, if parties enter into an exclusive choice of court agreement, the designated court will have jurisdiction over the dispute to which that agreement applies.⁶¹ Article 6 requires courts in other Contracting States to dismiss or suspend proceedings in favor of the court designated.⁶² Article 8 provides for recognition and enforcement of the foreign court judgment.⁶³ Article 9 allows for only limited exceptions to enforcement, such as lack of capacity or that judgment was obtained by fraud.⁶⁴ And unless the judgment was a default judgment, the recognizing court is bound by the findings of facts made by the designated court.⁶⁵

As of December 2020, the HCCCA is in effect for 31 countries: Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Mexico, Montenegro, the Netherlands, Poland, Portugal, Romania, Singapore, Slovakia, Slovenia, Spain, Sweden, and the United Kingdom (which in 2020 acceded to the HCCCA in its own right after leaving the European Union).⁶⁶ The treaty is also in effect for the European Union as such.⁶⁷ The People’s Republic of China, the Republic of North Macedonia, Ukraine, the United States, and most recently Israel have signed the HCCCA but not yet ratified it.⁶⁸

The first case under the HCCCA was brought in Singapore in 2018,⁶⁹ where an entity sought to enforce a judgment of the High Court of Justice

59. Hague Convention on Choice of Court Agreements, June 30, 2005, 44 I.L.M. 1294 (2005).

60. Hague Conference on Private International Law, *Convention of June 30, 2005 on Choice of Court Agreements: Status Table*, <https://www.hcch.net/en/instruments/conventions/status-table/?cid=98>; see also H. Scott Fairley & John Archibald, *After the Hague: Some Thoughts on the Impact on Canadian Law of the Convention on Choice of Court Agreements*, 12 ILSA J. INT’L & COMP. L. 417 (2006).

61. 44 I.L.M. at 1296 (art. 5).

62. *Id.* (art. 6).

63. *Id.* at 1296–97 (art. 8).

64. *Id.* at 1297 (art. 9).

65. *Id.* (art. 8(2)).

66. *Treaty Status Table*. The United Kingdom of Great Britain and Northern Ireland expressed its consent for it and the island of Gibraltar to be bound by the HCCCA, subject to certain declarations. *Id.*

67. *Id.*

68. *Id.*

69. Hague Conference on Private International Law, *News & Events: First Case Under the Choice of Court Convention*, <https://www.hcch.net/en/publications-and-studies/details4/?pid=6616&dtid=55>.

of England in the High Court of Singapore.⁷⁰ Relying on the Singaporean law that gave domestic effect to the HCCCA, the court granted the enforcement application.⁷¹

IX. SINGAPORE CONVENTION ON MEDIATION

The United Nations Convention on International Settlement Agreements Resulting from Mediation entered into force on September 12, 2020.⁷² Known informally as the Singapore Convention on Mediation, the treaty will allow businesses seeking enforcement of a mediated settlement to apply directly to the courts of countries that have ratified the treaty. The treaty has 53 signatories including the People's Republic of China, India, and the United States.

Six states have ratified the treaty: Belarus, Ecuador, Fiji, Qatar, Saudi Arabia, and Singapore. The nations that have signed but not ratified the treaty are Afghanistan, Armenia, Benin, Brunei Darussalam, Chad, Chile, the People's Republic of China, Colombia, Congo, Democratic Republic of the Congo, Eswatini (previously known as Swaziland), Gabon, Georgia, Ghana, Grenada, Guinea-Bissau, Haiti, Honduras, India, the Islamic Republic of Iran, Israel, Jamaica, Jordan, Kazakhstan, Lao People's Democratic Republic, Malaysia, Maldives, Mauritius, Montenegro, Nigeria, North Macedonia, Palau, Paraguay, Philippines, Republic of Korea, Rwanda, Samoa, Serbia, Sierra Leone, Sri Lanka, Timor-Leste, Turkey, Ukraine, the United States of America, Uruguay, and the Bolivarian Republic of Venezuela.

As more countries ratify the treaty, businesses will increase their reliance on mediation as a mechanism for dispute resolution. An increased use of mediation will likely help preserve commercial relationships.

X. ENFORCING FOREIGN DEFAMATION JUDGMENTS

The Securing the Protection of our Enduring and Established Constitutional Heritage Act, also known as the SPEECH Act, provides that a U.S. domestic court may not recognize or enforce a foreign judgment for defamation unless it finds that "(1) the defamation law applied in the foreign jurisdiction provides at least as much protection for freedom of speech and press as would be provided by the First Amendment to the Constitution

70. *Ermgassen & Co. Ltd. v. Sixcap Fin. Pte. Ltd.*, [2018] SGHCR 8 (Sing.), *available at* [https://www.supremecourt.gov.sg/docs/default-source/module-document/judgement/gd---os-680-of-2018-\(20180618\)-\(final\)-pdf.pdf](https://www.supremecourt.gov.sg/docs/default-source/module-document/judgement/gd---os-680-of-2018-(20180618)-(final)-pdf.pdf).

71. *Id.*

72. The treaty required only three ratifications to enter into effect.

and by the constitution and law of the state in which the domestic court is located;” or (2) if the party challenging the enforcement of that judgment “would have been found liable for defamation by a domestic court applying the First Amendment to the Constitution and the constitution and law of the state in which the domestic court is located.”⁷³ The SPEECH Act protects U.S. persons from “libel tourism,” which is “a form of international forum-shopping in which a plaintiff chooses to file a defamation claim in a foreign jurisdiction with a more favorable substantive law.”⁷⁴

The SPEECH Act bars domestic courts from recognizing foreign defamation judgments unless “the domestic court determines that the exercise of personal jurisdiction by the foreign court comported with the due process requirements imposed on domestic courts by the Constitution.”⁷⁵ The Act also provides that a foreign defamation judgment against an interactive computer service provider may not be enforced in a domestic court unless “the domestic court determines that the judgment would be consistent with section 230 of the Communications Act of 1934 if the information subject to judgment has been provided in the United States.”⁷⁶ Any U.S. person held liable for defamation in a foreign jurisdiction is permitted to “bring an action in district court for a declaration that the foreign judgment is repugnant to the Constitution or laws of the United States.”⁷⁷ The act also provides attorneys fees to a U.S. party who successfully opposes enforcement of a foreign defamation judgment.⁷⁸

Although the SPEECH Act was invoked in several federal court cases in 2020, none of those decisions found that the statute actually applied to the case before the court.⁷⁹

73. 28 U.S.C. § 4102(a).

74. *Trout Point Lodge, Ltd. v. Handshoe*, 729 F.3d 481, 487 (5th Cir. 2013); *see also Elec. Frontier Found. v. Global Equity Mgmt. (SA) Pty Ltd.*, 290 F. Supp. 3d 923, 941 (N.D. Cal. 2017).

75. 28 U.S.C. § 4102(b).

76. *Id.* § 4102(c).

77. *Id.* § 4104(a).

78. *Id.* § 4105.

79. *See, e.g., Steffens v. Kaminsky*, No. 3:20-cv-737 (D. Conn. June 2, 2020); *Thomas v. Brasher-Cunningham*, No. 3:19-cv-1981 (D. Conn. July 27, 2020); *Mitchell v. DHR*, No. 20-0411-TFM-C (S.D. Ala. Oct. 28, 2020); *Smith v. Comcast*, No. 20-5749 (E.D. Pa. Nov. 24, 2020). A similar situation happened in 2019. *See, e.g., Limtung v. Paypal Holdings*, 2019 WL 6173543 (E.D.N.Y. Nov. 11, 2019); *Gibbs v. Gill*, 2019 WL 3017773 (D. Utah July 10, 2019); *Knight v. Chatelin*, 2019 WL 2464789 (D. Neb. June 13, 2019); *Armstrong v. Whitaker*, No. 7:17-cv-1857-LSC (N.D. Ala. May 6, 2019).