

CREDIBILITY
INTERNATIONAL



Study of Damages Awards in Investor-State Cases

2nd Edition

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Contents

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Exhibits

Exhibit 1: Cases Included in the Second Edition of the Study

Appendices

Appendix A: *Curriculum Vitae* of Timothy H. Hart

Appendix B: *Curriculum Vitae* of Rebecca Vélez

1 Foreword

In the world of international arbitration, disputes between foreign investors and sovereign states are often settled by rights and protections granted in investment treaties. As a general rule, if a foreign investor makes an investment in a country in which the investor’s home country has a bilateral or multilateral investment treaty, that treaty often offers protections for the investor in the event of certain adverse actions by the host country, such as expropriation or inequitable treatment. If an investor feels that the host country has violated the investment treaty, the investor can file an international arbitration to try to recover the loss of value in its investment as a result of the alleged bad act of the host government. Many investment treaties specify which arbitral institution can administer an arbitration or, in some cases, the parties can choose.

The first edition of this study, published in January 2014, focused on arbitrations handled by the International Center for the Settlement of Investment Disputes (“ICSID”), a member of the World Bank Group. The study was based upon merit awards issued and publicly available as of 30 June 2013, and the analysis included 99 cases.

This second edition of the study is a more comprehensive study of all investor-state cases which are primarily investment treaty cases, with a few contract cases, based on publicly available awards as of 31 March 2020. This edition analyzes additional arbitrations under ICSID rules, as well as arbitrations under UNCITRAL, SCC, PCA, ICC, LCIA, and CRCICA rules.

It includes an additional 70 ICSID awards, as well as 72 awards from other forums, totaling 241 awards, 143% more than the first edition. As in the first edition, in this second edition we endeavored to study the damages and quantitative aspects of the awards, including interest and costs. Our analyses exclude cases that were dismissed on jurisdictional grounds or were otherwise discontinued or settled prior to a final merits award.

Based on the publicly available data for the 241 awards included in this analysis, damages awarded total almost \$71.9¹ billion on claims of over \$219 billion, which results in an average award as a percentage of claim amount of 32.8%. The average awarded amount was \$298.3 million on an average claim amount of \$910.6 million. Three awards alone accounted for 81.7% of the awarded damages and 70.1% of the amount claimed.² Excluding these three awards, the average damages awarded were \$55.2 million, with the average claimed amount being \$275.3 million.

¹ All references to dollar in this study refer to U.S. dollars.

² PCA Case No. 2005-04/AA227: Yukos Universal Limited (Isle of Man) v. the Russian Federation (“Yukos”); ICSID ARB/07/30: ConocoPhillips Petrozuata B.V., ConocoPhillips Hamaca B.V. and ConocoPhillips Gulf of Paria B.V. v. Venezuela (“Conoco”); and ICSID ARB/00/9: Generation Ukraine Inc. v. Ukraine (“Generation Ukraine”). Also, collectively referred to as “Outlier Cases” through this publication.

Our analyses indicate that the respondent won in approximately 61% of the reviewed cases,³ either through awards of no liability or awards with liability but less than 20% of the amount claimed being awarded. The claimant was awarded more than 20% of the claim in 38% of the cases.⁴

The study of the awards also shows interesting insights into the players in these matters. These 241 awards involve 50 arbitrators who issued four or more merit awards while only 12 have issued more than ten awards. With law firms, there are 41 firms with four or more awards and 12 with ten or more awards. The analysis of damages experts indicates there are 13 experts who have been involved in four or more reported cases and just five who have been reported in ten or more damages awards. We studied the track records of the arbitrators, law firms, and experts and scored the results they achieved in cases that reached the final merit award stage.

³ This study excludes cases that ended with a jurisdictional finding or were otherwise discontinued due to settlement or abandonment of claims. Therefore, we cannot quantify the aggregate winning percentage for claimants or respondents. We are only able to quantify those results for reported merit awards.

⁴ We lacked quantitative data on approximately 2% of the cases.

2 About the Authors

Credibility International (“Credibility”) is a consulting firm specialized in forensic accounting with one of our primary practices as damages experts in international disputes. Our team’s experience as testifying experts in international disputes, both contract and treaty cases, is deep with more than 60 disputes involving aggregate claims in excess of \$25 billion. Credibility has been the testifying expert in disputes involving parties from all of the Americas, Europe, Africa, Asia and Oceania with particular concentration in the following industries: consulting, energy, financial services, manufacturing, mining, and telecommunications.

Tim Hart, the founder and CEO of Credibility, and **Rebecca Vélez**, a Director, are the primary authors of this study. Tim is a CPA and Certified Fraud Examiner who has served as damages expert in over 90 cases, with 50 of those being international arbitrations of which more than 30 were investor-state cases. Rebecca is an MBA and has served as a damages expert in five investment treaty cases. Tim’s and Rebecca’s CVs are attached as Appendices A and B.

Tyler Famiglietti, **Peter Bihl**, and **Bryan Roach**, consultants at Credibility, compiled most of the data used in the analyses. Other Credibility team members performed quality review on the analysis.

Cases Credibility has been involved in as experts are included in this study.



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3 Description of the Study

The second edition of this study was undertaken to greatly expand upon the first edition by including all investor-state cases with final awards as of 31 March 2020, now including damages in arbitration cases under ICSID, UNCITRAL, SCC, PCA, ICC, LCIA, and CRCICA rules. Our primary focus in the study is upon merit awards. Awards that reported settlements, concluded with awards that found no jurisdiction or were otherwise discontinued prior to a final merit award are excluded. As a byproduct of our research, we also report on two other quantitative elements, interest and costs.

3.1 Approach

The following describe the steps in our study:

1. We compiled a comprehensive list of all concluded ICSID, UNCITRAL, SCC, PCA, ICC, LCIA, and CRCICA cases.⁵
2. We identified all cases that had gone to award and searched for public versions of those awards as of 31 March 2020. Awards with a pending annulment action were excluded from the study population.
3. For the cases with public awards, we compiled the following

information (if available) from the published award or another applicable source:⁶

- Forum
- Case reference number
- Claimant(s) and Respondent(s)
- Status of follow-on Proceedings
- Seat or Hearing Location
- Industry / Subject Matter
- Year Registered
- Award Date
- Arbitrators
- Law Firm(s)
- Lawyer(s)
- Damages Expert(s) (Firm and Individual)
- Investment amount and currency
- Claim amount and currency
- Damages amount per Respondent
- Damages awarded and currency
- Basis of damages amount (DCF, Invested Cost, etc.)
- Interest rates claimed and awarded, pre and post award
- Reported and awarded costs and currency
- Payer of representation costs and arbitration costs

⁵ ICSID website: <https://icsid.worldbank.org/en/Pages/cases/AdvancedSearch.aspx> ; Investment Policy Hub website: <https://investmentpolicy.unctad.org/investment-dispute-settlement> ; PCA website: <https://pca-cpa.org/en/cases/>

⁶ Note that not all data points are available for all the awards included in the analysis.

4. We included cases without public awards if there was sufficient publicly reported information to do so.
5. For awards involving foreign currency, all amounts were converted to U.S. dollars as of the award date per rates reported by Oanda.com.⁷
6. From this data set, we performed a number of analyses and created a variety of reports.

Note that some of the awards do not differentiate between the base award amount (often as of the date of the alleged bad act) and any pre-award interest. Accordingly, some of the comparisons between the award amount and the original claim might be skewed (where the amount of the recovery might seem higher when compared to the claim) due to pre-award interest. The currency conversion methodology applied can also cause the comparison to be skewed.

Table 3.1: Status of Cases Considered by Forum

| | ICSID | UNCITRAL | SCC | PCA | ICC | LCIA | CRCICA | Total |
|-------------------------------|-------|----------|-----|-----|-----|------|--------|------------|
| Included in 2nd Edition Study | 169 | 28 | 20 | 16 | 4 | 3 | 1 | 241 |
| Settled | 69 | 1 | 0 | 8 | 0 | 1 | 0 | 79 |
| No Jurisdiction | 70 | 3 | 3 | 11 | 0 | 0 | 0 | 87 |
| Discontinued / Terminated | 117 | 0 | 1 | 9 | 0 | 0 | 0 | 127 |
| Insufficient Data | 7 | 0 | 0 | 0 | 0 | 0 | 0 | 7 |

⁷ This currency conversion method will cause some comparisons between claim amounts and award amounts to be impacted by differences in exchange rates between the date the claim was filed and the date of the award.

3.2 Population

In this second edition of the study, we excluded any awards that were pending annulment or rectification, as such the analyses are focused on those cases where final merit awards were issued and available as of 31 March 2020. In the first edition of our study, we included awards that were pending annulment; however, significant annulments have occurred since then which caused us to modify the approach in this second edition. Exhibit 1 contains a listing of the 241 cases included in this study.

The following is a count of the status of the awards reviewed per forum. There are 241 awards included in the analysis and 371 that were reviewed but ultimately not included in the analysis for various reasons as shown in the table below.

3 Description of the Study

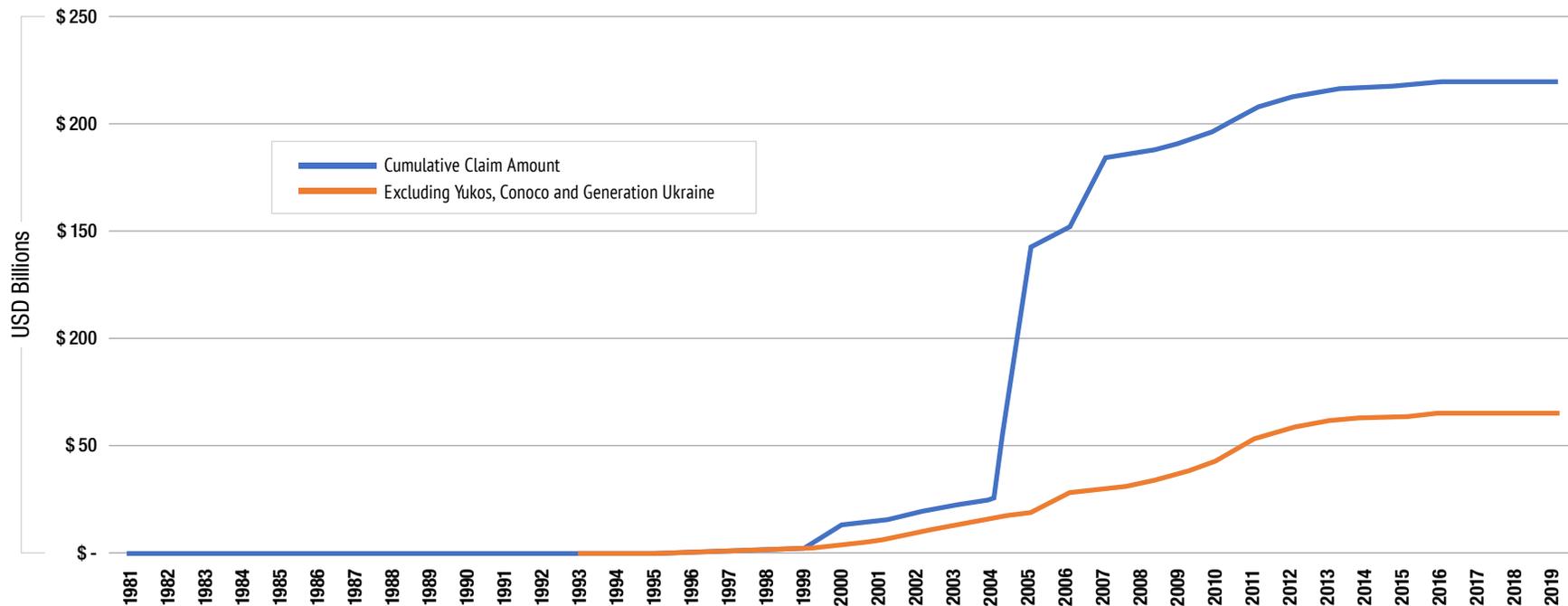
Table 3.1: Status of Cases Considered by Forum

| | ICSID | UNCITRAL | SCC | PCA | ICC | LCIA | CRCICA | Total |
|-------------------------------|------------|-----------|-----------|-----------|-----------|----------|----------|------------|
| Award Not Public ⁸ | 17 | 2 | 1 | 7 | 7 | 0 | 0 | 34 |
| Award Not Found | 15 | 0 | 1 | 19 | 2 | 0 | 0 | 37 |
| Total | 464 | 34 | 26 | 70 | 13 | 4 | 1 | 612 |

The following chart illustrates the growth in investment treaty cases measured by the amount claimed on a cumulative basis per year registered.

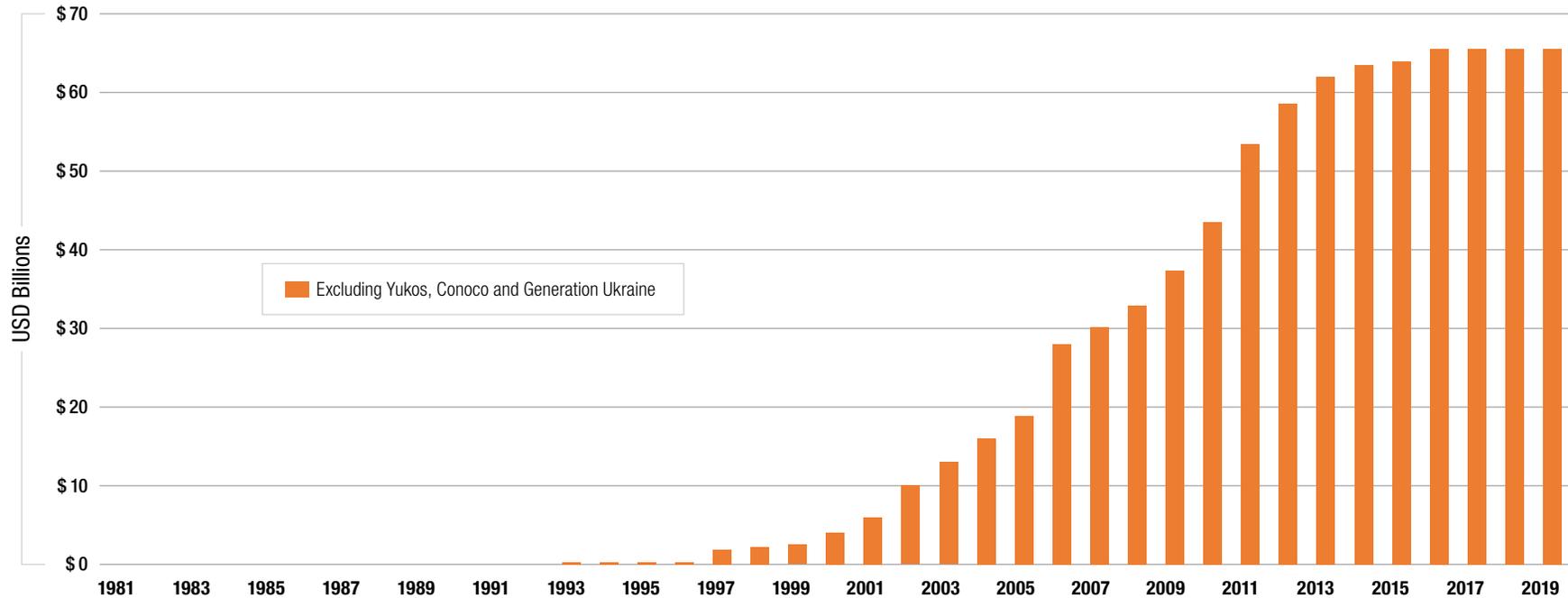
The chart shows the cumulative amount of all claims filed and as well as the growth in claims excluding the three Outlier Cases.

Figure 3.1: Cumulative Claims by Year of Arbitration Filing



⁸ These are awards that are not public for which we were not able to find sufficient publicly reported information about the damages case to include in the study.

Figure 3.2:
**Cumulative Claims by Year of Arbitration Filing, excluding
 Outlier Cases**



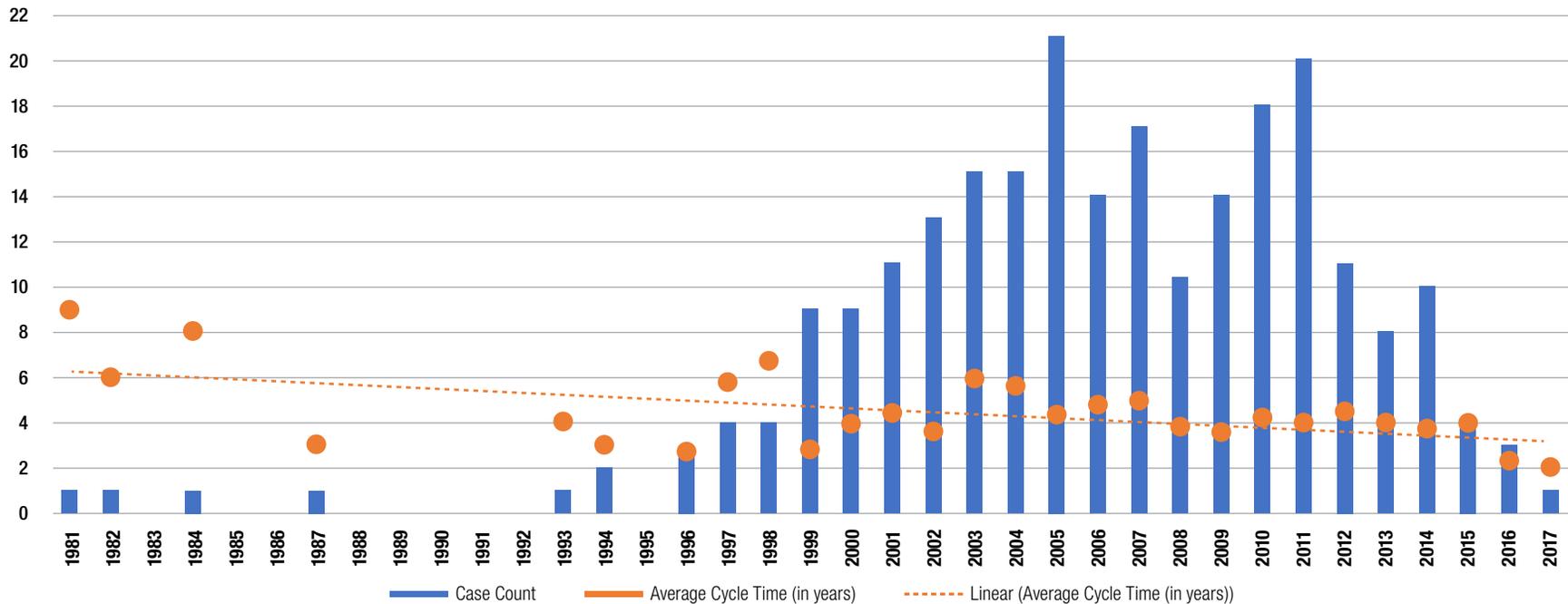
The chart below highlights just the growth of claims without the three Outlier Cases in order to assess the growth in the normal investment treaty cases.

It took 21 years from the first case in 1981 for investor-state claims to grow to \$10 billion in 2002.⁹ Just four years later, in 2006, the cumulative claims had doubled with the total value reaching \$20 billion. It then took another four years to double again, as claims reached \$40 billion in 2010. Although the cumulative claims increased by \$25 billion more after 2010, this measure is likely incomplete given the cycle time from case registration to final award. Regardless, these measures only include cases that went to final award.

The chart below plots the average amount of time it took for cases to be completed, known as cycle time, and the case count by year registered. The cycle time measure is a bit rough as it is not the exact date of filing or the exact date of the award. We are calculating the cycle time based on the year of the award less the year filed. Overall, the average cycle time for the 241 cases for which we could calculate that measure was 4.4 years.

⁹ Note that there are only data points relating to years when arbitrations were registered. Accordingly, the period from 1981 to 1998 is not close to scale.

Figure 3.3: Average Cycle Time and Case Count by Year Registered



The chart above shows that:

- The number of cases grew steadily from the mid-1990s until 2005 when the annual case count peaked at 21. Subsequently, the case count declined to 10 in 2008 and then increased again to 20 in 2011. We caution that the more recent years, from about 2012 forward, are unlikely to be representative of the cases that reached the merits stage filed in those years as some of the longer running cases from those years have not reached final award and thus are not included in this study.
- The average cycle time has declined over the period of the study. We again caution that the more recent years in the chart are unlikely to be representative and likely present an unrealistically low cycle time as the longer running cases from those filing years are not yet in the population.

4 Claims and Damages Awards Analysis

We endeavored to report upon the damages and other quantitative elements including interest awards and costs in the concluded cases. From this base quantitative data, we prepared a range of analyses including our own scorekeeping of wins, losses, and draws.

Our analysis includes 241 merit awards. Liability was found in 150 or 62% of the cases and no liability was found in 91 or 38% of the cases. We note that of the 150 cases with a finding of liability, 13 had no damages awarded.

We located the amount claimed in 237 of the 241 merit awards. Damages claimed in these 237 awards totaled \$219.5 billion, corresponding to an average claim of \$925.9 million and a median claim of \$90 million.

Table 4.1: Claims Larger than \$250 Million

| Rank | Claimant(s) | Respondent Country | Year Registered | Claim Amount |
|------|--|------------------------|-----------------|-------------------|
| 1 | Hulley Enterprises Limited (Cyprus); Yukos Universal Limited (Isle of Man); Veteran Petroleum Limited (Cyprus) | The Russian Federation | 2005 | \$114,174,000,000 |
| 2 | ConocoPhillips Petrozuata B.V., ConocoPhillips Hamaca B.V. and ConocoPhillips Gulf of Paria B.V. | Venezuela | 2007 | \$30,305,400,000 |
| 3 | Generation Ukraine Inc. | Ukraine | 2000 | \$9,446,287,341 |

This extreme difference between the simple average and the median shows that there are a few significant large cases that are outliers. There are 20 cases with a claimed amount exceeding \$1 billion, with the three Outlier Cases¹⁰ accounting for 70.1% of the total claimed amount. If we exclude these Outlier Cases, the average amount claimed drops to \$280 million, and the median claim falls to \$89.6 million. This large remaining spread between the average and the median after removing the three largest outliers is due to an additional group of 17 claims greater than \$1 billion still remaining.

4.1 Ranking of the Damages Claims

A ranking of the damages claims in cases that resulted in a merit award shows that there have been 20 cases with claims in excess of \$1 billion and 66 cases with claims over \$250 million.

¹⁰ *Generation Ukraine* appears to be an outlier as the tribunal said in the award that “Claimant’s presentation has lacked the intellectual rigour and discipline one would expect of a party seeking to establish a cause of action before a(n) international tribunal” and “Claimant’s presentation of its damages claim has reposed on the flimsiest foundation.”

Table 4.1: Claims Larger than \$250 Million

| Rank | Claimant(s) | Respondent Country | Year Registered | Claim Amount |
|------|--|--------------------|-----------------|-----------------|
| 4 | Cementownia "Nowa Huta" S.A. | Turkey | 2006 | \$4,648,157,411 |
| 5 | Crystallex International Corporation | Venezuela | 2011 | \$3,160,000,000 |
| 6 | Anatolie and Gabriel Stati, Ascom Group S.A., Terra Raf Trans Traiding Ltd | Kazakhstan | 2010 | \$2,894,289,200 |
| 7 | Occidental Petroleum Corporation and Occidental Exploration and Production Company | Ecuador | 2006 | \$2,359,500,000 |
| 8 | Rusoro Mining Ltd. | Venezuela | 2012 | \$2,318,898,825 |
| 9 | PSEG Global Inc. and Konya Ilgin Elektrik Üretim ve Ticaret Limited Sirketi | Turkey | 2002 | \$2,237,420,000 |
| 10 | Gold Reserve Inc. | Venezuela | 2009 | \$1,735,124,200 |
| 11 | Teinver S.A., Transportes de Cercanías S.A. and Autobuses Urbanos del Sur S.A. | Argentina | 2009 | \$1,590,000,000 |
| 12 | ConocoPhillips Gulf of Paria B.V. | Venezuela | 2016 | \$1,477,000,000 |
| 13 | Burlington Resources, Inc. | Ecuador | 2008 | \$1,318,755,933 |
| 14 | Churchill Mining Plc and Planet Mining Pty Ltd, formerly ARB/12/14 | Indonesia | 2012 | \$1,315,000,000 |
| 15 | AES Corporation and Tau Power B.V. | Kazakhstan | 2010 | \$1,290,000,000 |
| 16 | Marfin Investment Group Holdings S.A., Alexandros Bakatselos and others | Cyprus | 2013 | \$1,282,230,950 |
| 17 | Mohamed Abdulmoshen Al-Kharafi & Sons Co. | Libya | 2011 | \$1,144,930,000 |
| 18 | Oxus Gold plc | Uzbekistan | 2011 | \$1,140,700,000 |
| 19 | CSOB | Slovak Republic | 1997 | \$1,132,000,000 |
| 20 | Vannessa Ventures Ltd. | Venezuela | 2004 | \$1,045,000,000 |
| 21 | EVN AG | Bulgaria | 2013 | \$958,460,000 |
| 22 | OI European Group B.V | Venezuela | 2011 | \$929,544,714 |
| 23 | Suez, Sociedad General de Aguas de Barcelona S.A. and Vivendi Universal S.A. | Argentina | 2003 | \$834,100,000 |

Table 4.1: Claims Larger than \$250 Million

| Rank | Claimant(s) | Respondent Country | Year Registered | Claim Amount |
|------|---|--------------------|-----------------|---------------|
| 24 | Ioan Micula, Viorel Micula, S.C. European Food S.A., S.C. Starmill S.R.L. and S.C. Multipack S.R.L. | Romania | 2005 | \$832,900,000 |
| 25 | Azurix Corp. | Argentina | 2001 | \$686,400,000 |
| 26 | Electrabel S.A. | Hungary | 2007 | \$679,700,000 |
| 27 | Agility for Public Warehousing Company K.S.C. | Pakistan | 2011 | \$650,000,000 |
| 28 | Chevron Corporation (USA) and Texaco Petroleum Company (USA) | Ecuador | 2006 | \$649,786,333 |
| 29 | Mesa Power Group LLC | Canada | 2011 | \$590,836,319 |
| 30 | Enron Creditors Recovery Corporation (formerly Enron Corporation) and Ponderosa Assets, L.P. | Argentina | 2001 | \$582,000,000 |
| 31 | İçkale İnşaat Limited Şirketi | Turkmenistan | 2010 | \$566,705,446 |
| 32 | Total S.A. | Argentina | 2004 | \$557,200,000 |
| 33 | PL Holding S.A.R.L. | Poland | 2014 | \$528,752,000 |
| 34 | Mobil Exploration and Development Argentina Inc. Suc. Argentina and Mobil Argentina S.A. | Argentina | 2004 | \$513,500,000 |
| 35 | World Duty Free Company Limited | Kenya | 2000 | \$500,000,000 |
| 36 | CME Czech Republic BV | Czech Republic | 2000 | \$495,200,000 |
| 37 | Bayindir Insaat Turizm Ticaret Ve Sanayi A.S. | Pakistan | 2003 | \$494,600,000 |
| 38 | Murphy Exploration & Production Company – International | Ecuador | 2011 | \$472,990,000 |
| 39 | Mohammad Ammar Al-Bahloul (Austria) | Tajikistan | 2008 | \$468,470,000 |
| 40 | Siemens A.G. | Argentina | 2002 | \$462,477,071 |
| 41 | Togo Electricité and GDF-Suez Energie Services | Togo | 2006 | \$452,018,369 |
| 42 | Tulip Real Estate and Development Netherlands B.V. | Turkey | 2011 | \$450,000,000 |
| 43 | Bear Creek Mining Corporation | Peru | 2014 | \$409,400,000 |

Table 4.1: Claims Larger than \$250 Million

| Rank | Claimant(s) | Respondent Country | Year Registered | Claim Amount |
|------|--|------------------------|-----------------|---------------|
| 44 | Mercuria Energy Group Limited | Poland | 2008 | \$400,000,000 |
| 45 | Vigotop Limited | Hungary | 2011 | \$394,282,380 |
| 46 | Windstream Energy LLC | Canada | 2013 | \$394,126,972 |
| 47 | Eli Lilly and Company | Canada | 2013 | \$375,203,548 |
| 48 | Champion Trading Company and Ameritrade International, Inc. | Egypt | 2002 | \$365,171,121 |
| 49 | Standard Chartered Bank (Hong Kong) Limited | Tanzania | 2015 | \$352,514,258 |
| 50 | Invesmart BV | Czech Republic | 2007 | \$350,500,000 |
| 51 | Víctor Pey Casado and President Allende Foundation | Chile | 1998 | \$338,300,000 |
| 52 | Empresa Eléctrica del Ecuador, Inc. (EMELEC) | Ecuador | 2005 | \$326,000,000 |
| 53 | Corn Products International, Inc. | Mexico | 2004 | \$325,000,000 |
| 54 | Supervision y Control S.A. | Costa Rica | 2012 | \$320,000,000 |
| 55 | Compañía de Aguas del Aconquija S.A. and Vivendi Universal S.A. | Argentina | 1997 | \$316,923,000 |
| 56 | South American Silver Limited (Bermuda) | Bolivia | 2013 | \$307,200,000 |
| 57 | Les Laboratoires Servier, S.A.S. Biofarma, S.A.S. Arts et Techniques du Progres S.A.S. | Poland | 2009 | \$300,000,000 |
| 58 | Tenaris S.A. and Talta - Trading e Marketing Sociedade Unipessoal Lda. | Venezuela | 2011 | \$299,300,000 |
| 59 | RosInvestCo UK Ltd | The Russian Federation | 2005 | \$276,100,000 |
| 60 | Huntington Ingalls Inc. | Venezuela | 2012 | \$275,000,000 |
| 61 | Adel A Hamadi Al Tamimi | Oman | 2011 | \$273,000,000 |
| 62 | EDF International S.A., SAUR International S.A. and León Participaciones Argentinas S.A. | Argentina | 2003 | \$270,988,417 |
| 63 | Luigiterzo Bosca | Lithuania | 2010 | \$266,580,415 |

Table 4.1: Claims Larger than \$250 Million

| Rank | Claimant(s) | Respondent Country | Year Registered | Claim Amount |
|------|---|--------------------|-----------------|---------------|
| 64 | CMS Gas Transmission Company | Argentina | 2001 | \$261,100,000 |
| 65 | LG&E Energy Corp., LG&E Capital Corp. and LG&E International Inc. | Argentina | 2002 | \$259,500,000 |
| 66 | Suez, Sociedad General de Aguas de Barcelona S.A. and Interagua Servicios Integrales de Agua S.A. | Argentina | 2003 | \$257,700,000 |

Over time, the size and volume of the claims have clearly grown. The chart below shows all claims over time with the exception of the three Outlier Cases. All claims in excess of \$1 billion are shown in the chart with a red diamond. The first claim in excess of \$1 billion was *CSOB v. the Slovak Republic*, registered in 1997,

followed by *Generation Ukraine* in 2000. Between 2000 and 2005 there were four claims over \$1 billion filed. There were seven more filed from 2006 to 2010. From 2011 to 2015, there were five more cases that reached the final merit award stage with other billion plus dollar claims from those vintage years still in process.

Figure 4.1: Claim Amounts Over Time, excluding Outlier Cases

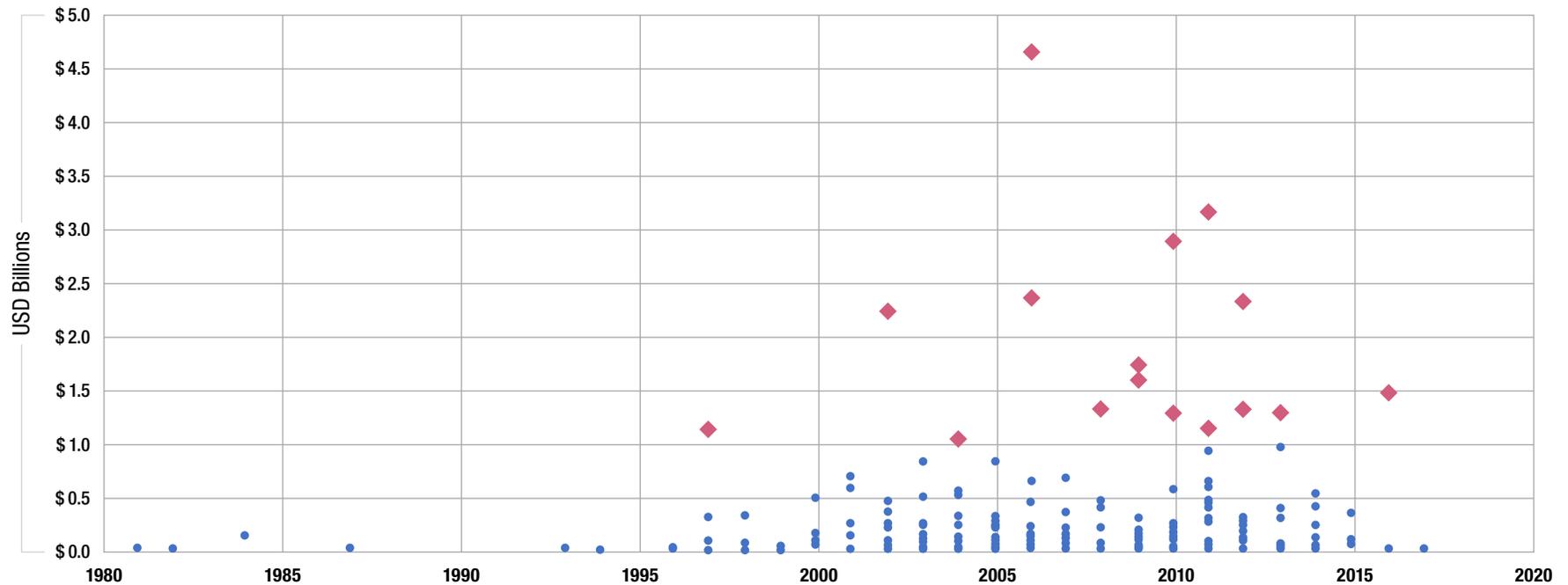
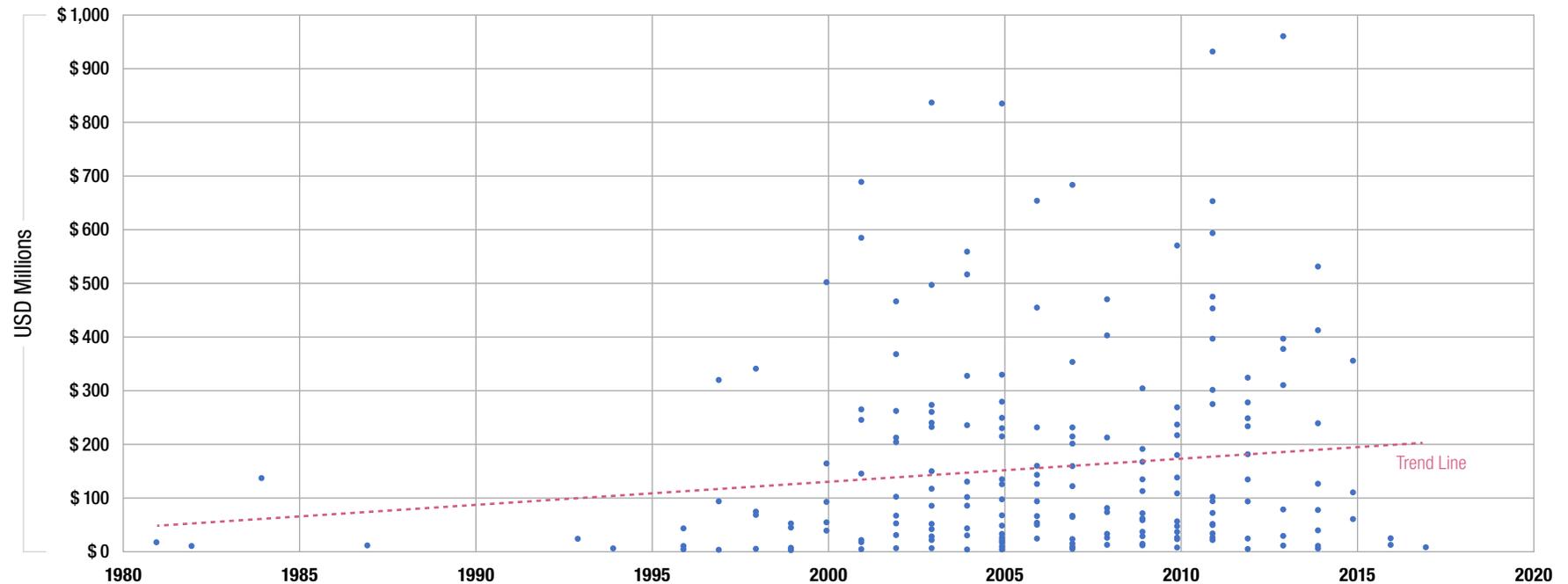


Figure 4.2: Claim Amounts Over Time, excluding Claims Greater Than \$1 Billion

When the claims over \$1 billion are excluded from the population, it is easier to see the size and timing of filing of the other claims. As the trend line in the chart below shows, claims have grown in size substantially over the years even without the upward pull from the claims over \$1 billion.



4.1.1 Claims by Industry Segment

In this edition of the study, we grouped the cases by broad industry segment in order to study the various cases by industry. The table below is a summary of the claimed amounts by industry, broken down by the year filed with the three Outlier Cases excluded.

This table shows that the top ten industries ranked by claim amounts were: (1) Energy, (2) Mining, (3) Financial Services, (4) Real Estate, (5) Water, (6) Transportation, (7) Government Services, (8) Food, (9) Construction, and (10) Agribusiness.

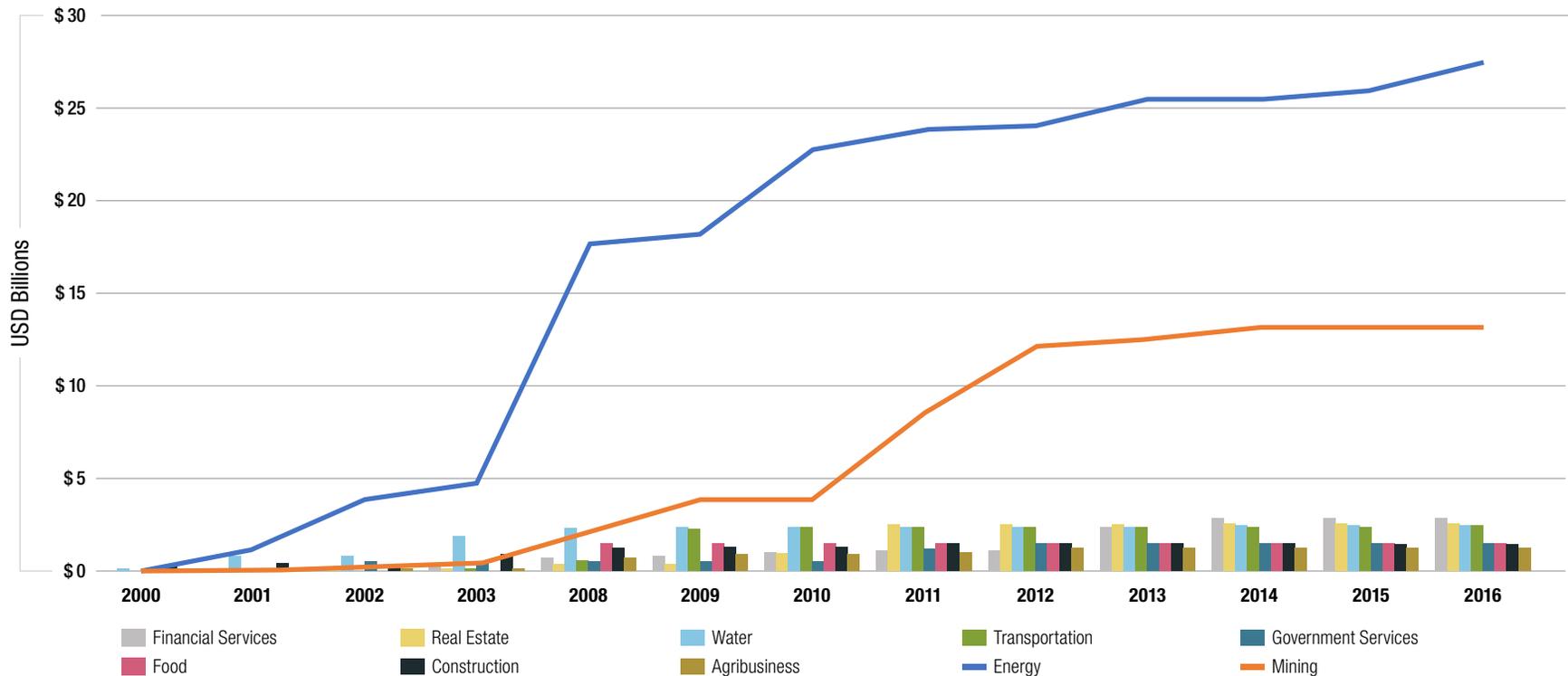
Table 4.2: Claimed Amounts by Industry Segment, excluding Outlier Cases

| Year Filed | Energy | Mining | Financial Services | Real Estate | Water | Transportation | Government Services | Food | Construction | Agribusiness | Total |
|--------------|-------------------------|-------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|-------------------------|
| 2000 | | | | | \$88,630,000 | | | | \$340,685,515 | | \$429,315,515 |
| 2001 | \$1,114,507,876 | | | \$13,500,000 | \$686,400,000 | | | | \$20,000,000 | | \$1,834,407,876 |
| 2002 | \$2,706,300,000 | \$201,500,000 | \$54,291,025 | | | | \$462,477,071 | | \$28,000,000 | \$27,800,000 | \$3,480,368,096 |
| 2003 | \$950,026,410 | \$130,000,000 | \$131,968,099 | | \$1,091,800,000 | \$84,073,034 | | | \$494,600,000 | | \$2,882,467,543 |
| 2008 | \$1,718,755,933 | \$468,470,000 | \$70,107,375 | \$10,000,000 | | \$209,500,000 | | | | \$78,593,520 | \$2,555,426,828 |
| 2009 | \$541,890,000 | \$1,735,124,200 | \$60,368,993 | | \$68,990,165 | \$1,590,000,000 | | \$60,823,748 | \$11,546,089 | \$109,719,302 | \$4,178,462,496 |
| 2010 | \$4,554,689,200 | \$4,054,133 | \$221,589,000 | \$566,705,446 | | \$149,848,358 | | | | \$53,817,762 | \$5,550,703,898 |
| 2011 | \$1,113,216,170 | \$4,643,400,000 | \$52,671,060 | \$1,594,930,000 | | | \$650,000,000 | | \$137,100,000 | \$99,218,920 | \$8,290,536,150 |
| 2012 | \$200,656,562 | \$3,633,898,825 | | | | | \$320,000,000 | | | \$231,734,117 | \$4,386,289,504 |
| 2013 | \$1,428,686,972 | \$307,200,000 | \$1,282,230,950 | \$9,092,581 | | | | | | \$25,355,200 | \$3,052,565,703 |
| 2014 | | \$644,800,000 | \$528,752,000 | \$74,100,000 | \$73,352,500 | \$36,155,825 | \$4,329,594 | | | | \$1,361,489,919 |
| 2015 | \$516,386,898 | | | | | \$10,300,000 | | | | | \$516,386,898 |
| 2016 | \$1,477,000,000 | | | | | \$10,300,000 | | | | | \$1,487,300,000 |
| 2017 | | | | | | | \$5,334,133 | | | | \$5,334,133 |
| Total | \$27,469,318,900 | \$13,092,147,158 | \$2,845,504,453 | \$2,577,984,889 | \$2,399,607,816 | \$2,376,655,429 | \$1,500,250,194 | \$1,477,391,199 | \$1,389,474,449 | \$1,229,289,147 | \$56,357,623,633 |

If the *Yukos* and *Conoco* cases had been kept in the analysis, the energy sector claim size in aggregate would have dwarfed the other categories by an even larger amount as the aggregate energy claims would have been almost \$172 billion. Exclusion of the *Generation Ukraine* case seems appropriate as the entire case appeared to lack merit and that case by itself would have moved the Construction segment into a misleading third-place ranking.

The figure below illustrates that for investor-state cases filed between 2000 and 2016, energy cases have dominated in terms of claim volume even with the exclusion of \$144 billion of combined claims between *Yukos* and *Conoco*. In fact, the chart shows that energy and mining cases are the only two industries that had aggregate claims that exceeded the rather tight range of the other top ten industries which all had aggregate claims during the 16-year period ranging from \$1.2 billion to \$2.8 billion.

Figure 4.3:
Cumulative Damages Claimed by Industry Segment



The table below summarizes the claims by industry. The top ten industry segments had claims that exceeded \$1.2 billion, while the

next ten industries represented claims ranging from \$299 million to \$1.1 billion.

Table 4.3: Claimed Amounts by Industry Segment

| All Cases in Study | | |
|--------------------|---------------------|-------------------|
| Rank | Industry | Total Claims |
| 1 | Energy | \$171,948,718,900 |
| 2 | Mining | \$13,092,147,158 |
| 3 | Construction | \$10,844,094,650 |
| 4 | Financial Services | \$3,982,549,005 |
| 5 | Water | \$2,808,157,062 |
| 6 | Real Estate | \$2,750,184,829 |
| 7 | Transportation | \$2,376,655,429 |
| 8 | Government Services | \$1,508,167,769 |
| 9 | Food | \$1,477,992,963 |
| 10 | Agribusiness | \$1,240,946,211 |
| 11 | Manufacturing | \$1,092,564,843 |
| 12 | Glass | \$929,544,714 |
| 13 | Media | \$925,151,000 |
| 14 | Metal Production | \$686,531,000 |
| 15 | Retail | \$685,923,877 |
| 16 | Tourism | \$559,122,349 |

| Excluding Three Outlier Cases | | |
|-------------------------------|---------------------|------------------|
| Rank | Industry | Total Claims |
| 1 | Energy | \$27,469,318,900 |
| 2 | Mining | \$13,092,147,158 |
| 3 | Financial Services | \$3,982,549,005 |
| 4 | Water | \$2,808,157,062 |
| 5 | Real Estate | \$2,750,184,829 |
| 6 | Transportation | \$2,376,655,429 |
| 7 | Government Services | \$1,508,167,769 |
| 8 | Food | \$1,477,992,963 |
| 9 | Construction | \$1,397,807,309 |
| 10 | Agribusiness | \$1,240,946,211 |
| 11 | Manufacturing | \$1,092,564,843 |
| 12 | Glass | \$929,544,714 |
| 13 | Media | \$925,151,000 |
| 14 | Metal Production | \$686,531,000 |
| 15 | Retail | \$685,923,877 |
| 16 | Tourism | \$559,122,349 |

Table 4.3: Claimed Amounts by Industry Segment

| All Cases in Study | | |
|--------------------|-----------------------|--------------------------|
| Rank | Industry | Total Claims |
| 17 | Pharmaceuticals | \$375,203,548 |
| 18 | Cotton | \$365,171,121 |
| 19 | Alcohol & Tobacco | \$335,438,881 |
| 20 | Telecommunications | \$299,170,734 |
| 21 | Defense | \$275,000,000 |
| 22 | Courier | \$217,800,000 |
| 23 | Communication | \$178,251,408 |
| 24 | Engineering | \$124,120,360 |
| 25 | Gambling | \$100,000,000 |
| 26 | Industrial | \$70,921,421 |
| 27 | Printing | \$65,000,000 |
| 28 | Biotechnology | \$35,000,000 |
| 29 | Chemical | \$30,987,506 |
| 30 | Maritime | \$23,500,000 |
| 31 | Trade | \$23,000,000 |
| 32 | Professional Services | \$20,584,625 |
| Total | | \$219,447,601,362 |

| Excluding Three Outlier Cases | | |
|-------------------------------|-----------------------|-------------------------|
| Rank | Industry | Total Claims |
| 17 | Pharmaceuticals | \$375,203,548 |
| 18 | Cotton | \$365,171,121 |
| 19 | Alcohol & Tobacco | \$335,438,881 |
| 20 | Telecommunications | \$299,170,734 |
| 21 | Defense | \$275,000,000 |
| 22 | Courier | \$217,800,000 |
| 23 | Communication | \$178,251,408 |
| 24 | Engineering | \$124,120,360 |
| 25 | Gambling | \$100,000,000 |
| 26 | Industrial | \$70,921,421 |
| 27 | Printing | \$65,000,000 |
| 28 | Biotechnology | \$35,000,000 |
| 29 | Chemical | \$30,987,506 |
| 30 | Maritime | \$23,500,000 |
| 31 | Trade | \$23,000,000 |
| 32 | Professional Services | \$20,584,625 |
| Total | | \$65,521,914,021 |

We then analyzed whether there appeared to be differences between the industry segments in terms of whether liability was found or not. As noted above, liability was found in 62% of all of the cases. The table below includes the top ten industries in terms of claim size sorted by the total number of claims. While half the industry

segments were close to average in terms of liability being found, cases in the Water segment had liability found in 12 of 14 cases for a rate approaching 86% and Financial Services cases had a liability rate of 70%. Construction, Agribusiness and Government Services only scored a 50% rate of liability findings.

Table 4.4: Liability by Industry Segment

| Liability Found | Water | Financial Services | Mining | Food | Energy | Real Estate | Transportation | Construction | Agribusiness | Government Services | Total |
|--------------------------|--------------|--------------------|--------------|--------------|--------------|--------------|----------------|--------------|--------------|---------------------|--------------|
| No | 2 | 6 | 6 | 3 | 22 | 6 | 4 | 8 | 8 | 4 | 69 |
| Yes | 10 | 13 | 11 | 5 | 35 | 9 | 6 | 8 | 8 | 3 | 108 |
| Yes - No damages awarded | 2 | 1 | 1 | 1 | 2 | 0 | 0 | 0 | 0 | 1 | 8 |
| Total | 14 | 20 | 18 | 9 | 59 | 15 | 10 | 16 | 16 | 8 | 185 |
| % Liability Found | 85.7% | 70.0% | 66.7% | 66.7% | 62.7% | 60.0% | 60.0% | 50.0% | 50.0% | 50.0% | 62.7% |

We then looked at the cases where liability was found to see the variation of the damages awarded compared to the claimed amount for the same top ten industry segments. The table below is a simple average of the average of the award divided by the claim for those cases with a finding of liability and an award greater than zero.

The average award as a percentage of the claim was 37.4%.¹¹ The table shows that the percentage of the claim awarded was far above average for Financial Services, Agribusiness and Water cases, while the only industry that badly lagged the average award to claim ratio was the Food industry at 13.1%.

Table 4.5: Award as a Percentage of Claim by Industry Segment

| Financial Services | Agribusiness | Water | Government Services | Energy | Transportation | Mining | Real Estate | Construction | Food | All Cases |
|--------------------|--------------|-------|---------------------|--------|----------------|--------|-------------|--------------|-------|-----------|
| 71.7% | 55.9% | 49.5% | 40.5% | 40.1% | 35.0% | 34.1% | 33.5% | 32.0% | 13.1% | 37.4% |

¹¹ This is an average of the averages per case and not a weighted average.

4.1.2 Claims by Region

We also analyzed the cases on a regional basis and found significant regional differences in terms of volume of cases and the average value of the claims. The table below includes all cases and results in: (1) Europe ranking the highest due to the \$114 billion *Yukos* and

the \$9.4 billion *Generation Ukraine* claims; and (2) Latin America ranking second with the claim value inflated two-fold due to the \$30 billion *Conoco* claim.

Table 4.6: Case Count and Claim Amounts by Region

| Region | Case Count | Sum of Claim Amounts | Average Claim Size |
|---------------|------------|--------------------------|----------------------|
| Europe | 79 | \$135,306,191,119 | \$1,712,736,596 |
| Latin America | 90 | \$60,086,076,034 | \$667,623,067 |
| Asia | 30 | \$17,585,037,439 | \$586,167,915 |
| Africa | 29 | \$4,319,670,025 | \$148,954,139 |
| North America | 13 | \$2,150,626,744 | \$165,432,826 |
| Total | 241 | \$219,447,601,362 | \$910,570,960 |

Excluding the three Outlier Cases changes the ranking. Latin America was the most active region both in terms of number of cases and the aggregate claim amounts. Asia ranked second in terms of aggregate claims value, with by far the highest average claim size. The analysis also shows that Europe, Africa and North

America have reasonably similar average claims sizes, but Europe had far higher aggregate claims with more than 2.5 times the African cases and nearly six times the number of North American cases.

Table 4.7: Case Count and Claim Amounts by Region, excluding Outlier Cases

| Region | Case Count | Sum of Claim Amounts | Average Claim Size |
|---------------|------------|-------------------------|----------------------|
| Latin America | 89 | \$29,780,676,034 | \$334,614,337 |
| Asia | 30 | \$17,585,037,439 | \$586,167,915 |
| Europe | 77 | \$11,685,903,778 | \$151,764,984 |
| Africa | 29 | \$4,319,670,025 | \$148,954,139 |
| North America | 13 | \$2,150,626,744 | \$165,432,826 |
| Total | 238 | \$65,521,914,021 | \$275,302,160 |

Unsurprisingly, when the claims by region in the table above are analyzed by industry segment, the Energy and Mining segments are the highest value segments in most regions with the value of

the claims in Latin America, Asia and North America dominated by these two segments. The table below lists all industry segments with over \$1 billion of aggregate claims.

Table 4.8: Aggregate Claim Amounts by Region and Industry Segment

| | Latin America | Asia | Europe | Africa | North America | Total |
|---------------------|------------------|------------------|-----------------|-----------------|-----------------|-------------------------|
| Energy | \$10,784,282,459 | \$11,553,820,768 | \$3,101,463,193 | \$805,732,627 | \$1,224,019,854 | \$27,469,318,900 |
| Mining | \$9,562,223,025 | \$2,928,224,133 | \$278,700,000 | \$273,000,000 | \$50,000,000 | \$13,092,147,158 |
| Financial Services | \$251,082,000 | \$113,040,053 | \$3,399,535,927 | \$218,891,025 | | \$3,982,549,005 |
| Water | \$2,713,569,326 | | \$74,978,746 | \$19,608,990 | | \$2,808,157,062 |
| Real Estate | \$115,300,000 | \$1,065,915,869 | \$21,400,000 | \$1,497,568,960 | \$50,000,000 | \$2,750,184,829 |
| Transportation | \$2,013,126,570 | \$36,155,825 | \$327,373,034 | | | \$2,376,655,429 |
| Government Services | \$809,527,396 | \$650,000,000 | \$48,640,373 | | | \$1,508,167,769 |

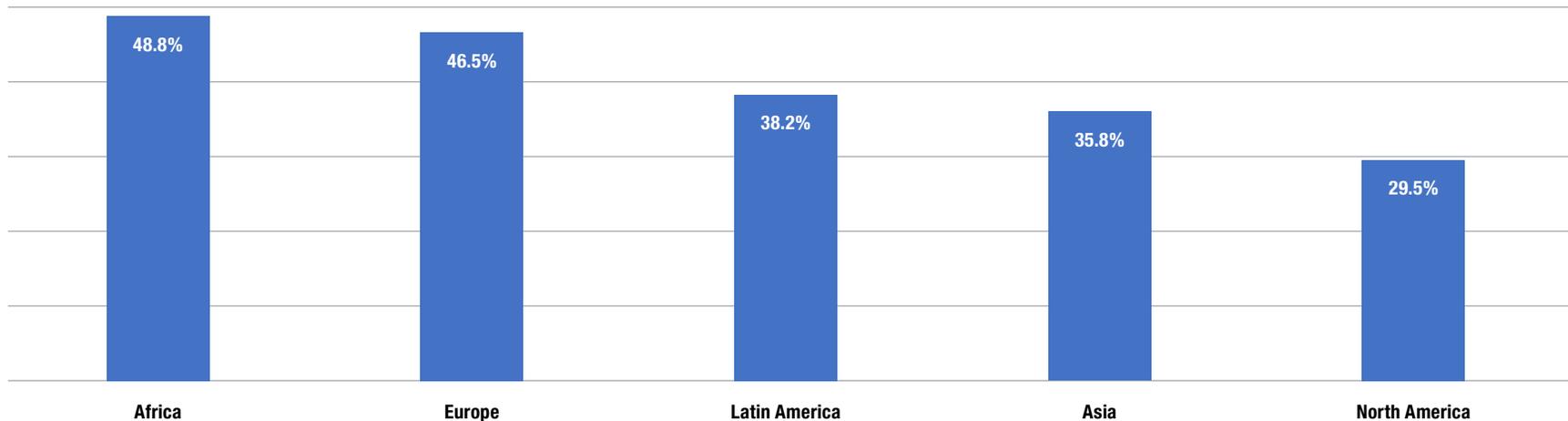
Table 4.8: Aggregate Claim Amounts by Region and Industry Segment

| | Latin America | Asia | Europe | Africa | North America | Total |
|---------------|-------------------------|-------------------------|------------------------|------------------------|------------------------|-------------------------|
| Food | \$21,146,515 | | \$1,456,846,448 | | | \$1,477,992,963 |
| Construction | \$198,681,866 | \$878,693,064 | \$1,821,796 | \$228,610,583 | \$90,000,000 | \$1,397,807,309 |
| Agribusiness | \$565,527,994 | \$8,067,368 | \$469,134,613 | \$67,734,314 | \$130,481,922 | \$1,240,946,211 |
| Manufacturing | \$415,300,000 | | \$490,717,438 | \$186,547,405 | | \$1,092,564,843 |
| Total | \$27,449,767,151 | \$17,233,917,079 | \$9,670,611,567 | \$3,297,693,904 | \$1,544,501,775 | \$59,196,491,477 |

When we analyzed the success of claimants obtaining the claimed damages, we found that the percentage of claimed damages awarded varied significantly by region in those cases with a finding of liability and a damages award. The figure below shows that claimants in Africa were awarded almost 49% of their claims and

those in Europe received over 46%. Claimants in Latin America received approximately the 38% average of all claims, while Asian claimants received slightly less and North American claimants did the worst with under 30% of their claimed amount being awarded.

Figure 4.4: Average Award as a Percentage of Claim by Region



4.1.3 Claims by Region and Respondent Country

We also analyzed the cases on a regional and respondent country basis excluding the three Outlier Cases.

4.1.3.1 Latin America

The table below lists the Latin American claims by respondent country. Venezuela dominates the region with 42% of the claims and the largest average claims size. The value of claims against Venezuela were heavily weighted to Energy and Mining claims with \$10.4 billion of the \$12.6 billion of total claims in those industries.¹² Argentina had Energy claims make up approximately 40% of the

claims against them, with Water claims making up almost 32% of the total and Transportation making up over 20% of the claimed amounts. The next highest ranked country in Latin America, Ecuador, had all of their reported claims in the Energy and Mining sectors with \$5.25 billion and \$350 million of claims, respectively.

Table 4.9: Case Count and Claim Amounts in Latin America

| Respondent Country | Case Count | Sum of Claim Amounts | Average Claim Size |
|--------------------|------------|----------------------|--------------------|
| Venezuela | 17 | \$12,572,819,356 | \$739,577,609 |
| Argentina | 20 | \$7,770,362,748 | \$388,518,137 |
| Ecuador | 12 | \$5,597,737,449 | \$466,478,121 |
| Mexico | 12 | \$1,047,874,985 | \$87,322,915 |
| Peru | 7 | \$696,956,792 | \$99,565,256 |
| Costa Rica | 4 | \$444,100,000 | \$111,025,000 |
| Bolivia | 2 | \$443,600,000 | \$221,800,000 |
| Chile | 2 | \$358,300,000 | \$179,150,000 |
| Guatemala | 2 | \$251,778,212 | \$125,889,106 |

¹² If the *Conoco* case were included, Venezuela's total claims would have been approximately \$43 billion, with Energy and Mining cases making up \$40.8 billion of that total.

Table 4.9: Case Count and Claim Amounts in Latin America

| Respondent Country | Case Count | Sum of Claim Amounts | Average Claim Size |
|--------------------|------------|-------------------------|----------------------|
| Dominican Republic | 1 | \$209,500,000 | \$209,500,000 |
| Ghana | 1 | \$156,567,285 | \$156,567,285 |
| Panama | 1 | \$62,163,552 | \$62,163,552 |
| Paraguay | 2 | \$62,127,715 | \$31,063,858 |
| Belize | 1 | \$45,170,734 | \$45,170,734 |
| Uruguay | 1 | \$22,267,000 | \$22,267,000 |
| Barbados | 1 | \$22,234,969 | \$22,234,969 |
| Honduras | 2 | \$17,115,237 | \$8,557,618 |
| Trinidad & Tobago | 1 | No data | No data |
| Total | 89 | \$29,780,676,034 | \$334,614,337 |

4.1.3.2 Asia

In Asia, there were one-third the number of reported awards when compared to Latin America.¹³ The claims against both Turkey and Kazakhstan have been dominated by Energy claims with 94% of the

claims against Turkey and 95% of the claims against Kazakhstan in that sector. For Indonesia, 97% of the claims were in the Mining sector.

Table 4.10: Case Count and Claim Amounts in Asia

| Respondent Country | Case Count | Sum of Claim Amounts | Average Claim Size |
|--------------------|------------|----------------------|--------------------|
| Turkey | 3 | \$7,335,577,411 | \$2,445,192,470 |
| Kazakhstan | 6 | \$4,868,154,337 | \$811,359,056 |
| Indonesia | 3 | \$1,349,671,060 | \$449,890,353 |

¹³ When the *Conoco* case is included, there are 90 reported Latin American awards.

Table 4.10: Case Count and Claim Amounts in Asia

| Respondent Country | Case Count | Sum of Claim Amounts | Average Claim Size |
|--------------------|------------|-------------------------|----------------------|
| Pakistan | 2 | \$1,144,600,000 | \$572,300,000 |
| Uzbekistan | 1 | \$1,140,700,000 | \$1,140,700,000 |
| Turkmenistan | 2 | \$612,805,446 | \$306,402,723 |
| Tajikistan | 1 | \$468,470,000 | \$468,470,000 |
| Yemen | 1 | \$246,993,064 | \$246,993,064 |
| Thailand | 1 | \$124,120,360 | \$124,120,360 |
| Philippines | 1 | \$91,000,000 | \$91,000,000 |
| Sri Lanka | 2 | \$68,436,361 | \$34,218,181 |
| India | 2 | \$40,209,958 | \$20,104,979 |
| Kyrgyz Republic | 2 | \$37,084,651 | \$18,542,326 |
| Georgia | 1 | \$30,200,000 | \$30,200,000 |
| Kyrgyzstan | 1 | \$20,710,423 | \$20,710,423 |
| Bangladesh | 1 | \$6,304,369 | \$6,304,369 |
| Total | 30 | \$17,585,037,439 | \$586,167,915 |

4.1.3.3 Europe

In Europe, the Energy and Mining sectors do not dominate the claims like they do in Latin America and Asia. Poland, with the highest value of claims against them, had nine claims in seven different industry segments. The six claims against Romania were spread across five industry segments, with 62% in the

Food industry. Hungary was the exception in the top European respondents with Energy segment claims making up 69% of the reported claims against them.

Table 4.11: Case Count and Claim Amounts in Europe

| Respondent Country | Case Count | Sum of Claim Amounts | Average Claim Size |
|------------------------|------------|----------------------|--------------------|
| Poland | 9 | \$1,702,057,647 | \$189,117,516 |
| Romania | 6 | \$1,549,872,611 | \$258,312,102 |
| Hungary | 5 | \$1,520,655,414 | \$304,131,083 |
| Czech Republic | 11 | \$1,398,604,602 | \$127,145,873 |
| Cyprus | 2 | \$1,286,560,544 | \$643,280,272 |
| Slovak Republic | 2 | \$1,202,107,375 | \$601,053,688 |
| Bulgaria | 2 | \$1,104,580,152 | \$552,290,076 |
| Lithuania | 2 | \$297,639,487 | \$148,819,744 |
| Croatia | 3 | \$292,156,935 | \$97,385,645 |
| The Russian Federation | 3 | \$286,617,574 | \$95,539,191 |
| Spain | 5 | \$260,828,129 | \$52,165,626 |
| Ukraine | 8 | \$246,183,017 | \$30,772,877 |
| Montenegro | 1 | \$114,500,000 | \$114,500,000 |
| Estonia | 3 | \$104,991,844 | \$34,997,281 |
| Slovenia | 1 | \$94,566,857 | \$94,566,857 |
| Slovakia | 1 | \$63,014,011 | \$63,014,011 |
| Moldova | 4 | \$55,248,843 | \$13,812,211 |
| Albania | 4 | \$33,263,003 | \$8,315,751 |

Table 4.11: Case Count and Claim Amounts in Europe

| Respondent Country | Case Count | Sum of Claim Amounts | Average Claim Size |
|---------------------------|------------|-------------------------|----------------------|
| Serbia | 2 | \$30,667,268 | \$15,333,634 |
| Former Yugoslav Macedonia | 1 | \$25,823,748 | \$25,823,748 |
| Latvia | 2 | \$15,964,718 | \$7,982,359 |
| Total | 77 | \$11,685,903,778 | \$151,764,984 |

4.1.3.4 Africa

The top respondents in Africa had claims across a variety of industries. The top respondent in the region, Libya, earned that position with 90% of total claimed amounts against them being a single real estate claim. Next ranked in Africa is Egypt, with

eight claims spread across six industry segments. The third ranked African respondent, Tanzania, had three reported claims with an Energy sector claim making up 60% of the claimed amounts against them.

Table 4.12: Case Count and Claim Amounts in Africa

| Respondent Country | Case Count | Sum of Claim Amounts | Average Claim Size |
|--------------------|------------|----------------------|--------------------|
| Libya | 2 | \$1,267,663,000 | \$633,831,500 |
| Egypt | 8 | \$966,152,870 | \$120,769,109 |
| Tanzania | 3 | \$586,723,248 | \$195,574,416 |
| Kenya | 1 | \$500,000,000 | \$500,000,000 |
| Togo | 1 | \$452,018,369 | \$452,018,369 |
| Oman | 1 | \$273,000,000 | \$273,000,000 |
| Morocco | 1 | \$89,118,885 | \$89,118,885 |
| Zimbabwe | 2 | \$67,734,314 | \$33,867,157 |

Table 4.12: Case Count and Claim Amounts in Africa

| Respondent Country | Case Count | Sum of Claim Amounts | Average Claim Size |
|--------------------|------------|------------------------|----------------------|
| Jordan | 1 | \$28,000,000 | \$28,000,000 |
| Congo | 2 | \$23,000,000 | \$11,500,000 |
| Lebanon | 1 | \$21,768,467 | \$21,768,467 |
| Zaire | 1 | \$21,574,405 | \$21,574,405 |
| Burundi | 2 | \$10,292,581 | \$5,146,291 |
| Senegal | 1 | \$8,332,861 | \$8,332,861 |
| Seychelles | 1 | \$4,291,025 | \$4,291,025 |
| Algeria | 1 | No data | No data |
| Total | 29 | \$4,319,670,025 | \$148,954,139 |

4.1.3.5 North America

North America represents a tiny fraction of the global claims with under 1% of all claimed amounts and about 3% of the claimed amounts when the three Outlier Cases are excluded. Canada had 91% of the claimed amount in the region, with four

Energy sector claims making up 62% of the claimed amounts. The \$190 million of claims against the United States were spread across three different industries.

Table 4.13: Case Count and Claim Amounts in North America

| Respondent Country | Case Count | Sum of Claim Amounts | Average Claim Size |
|--------------------|------------|------------------------|----------------------|
| Canada | 10 | \$1,960,626,744 | \$196,062,674 |
| United States | 3 | \$190,000,000 | \$63,333,333 |
| Total | 13 | \$2,150,626,744 | \$165,432,826 |

4.2 Claims with No Liability Found

Of the 241 cases in the study, there were 91 cases with a finding of no liability, which naturally resulted in no damages being awarded. We identified a claim amount for 88 of the 91 cases where no liability was found. These represented \$29.4 billion of claimed damages. The average of these claims was \$323.4 million with a median of \$73.4 million. This gap between the median and mean once again shows that there are outliers on the high end of the claim range.

Two cases, *Generation Ukraine* and *Cementownia v. Turkey*, account for 48% of claimed damages in this sub-group of 91 cases where no liability was found. In some of the awards where no liability was found, there is limited, if any, discussion of damages issues.

The table below summarizes the cases that lost on liability by year registered and the sum of the claim amount from that year.

Table 4.14: Cases with a No Liability Finding by Year Registered

| Year Registered | Case Count | Aggregate Claims |
|-----------------|------------|------------------|
| 1994 | 1 | \$3,107,074 |
| 1998 | 1 | \$601,764 |
| 1999 | 3 | \$55,098,157 |
| 2000 | 6 | \$10,322,036,226 |
| 2001 | 3 | \$386,896,137 |
| 2002 | 7 | \$662,971,121 |
| 2003 | 6 | \$813,658,251 |
| 2004 | 4 | \$1,362,013,189 |
| 2005 | 7 | \$623,720,511 |
| 2006 | 6 | \$5,039,069,872 |
| 2007 | 7 | \$1,640,357,548 |
| 2008 | 5 | \$519,425,537 |

Table 4.14: Cases with a No Liability Finding by Year Registered

| Year Registered | Case Count | Aggregate Claims |
|-----------------|------------|-------------------------|
| 2009 | 4 | \$388,819,302 |
| 2010 | 6 | \$758,196,415 |
| 2011 | 7 | \$1,856,727,470 |
| 2012 | 5 | \$1,837,340,170 |
| 2013 | 5 | \$2,717,349,698 |
| 2014 | 7 | \$432,234,919 |
| 2017 | 1 | \$5,334,133 |
| Total | 91 | \$29,424,957,495 |

The vast majority of the failed claims are listed in the table below, which includes all claims with a finding of no liability with a claim value greater than or equal to \$100 million.

The listing of 36 cases below includes 93% of the \$29.4 billion of failed claims value.

Table 4.15: Claims Greater Than or Equal to \$100 Million with a No Liability Finding

| Rank | Claimant(s) | Respondent | Year Registered | Claim Amount |
|------|---|------------|-----------------|-----------------|
| 1 | Generation Ukraine Inc. | Ukraine | 2000 | \$9,446,287,341 |
| 2 | Cementownia "Nowa Huta" S.A. | Turkey | 2006 | \$4,648,157,411 |
| 3 | Churchill Mining Plc and Planet Mining Pty Ltd, formerly ARB/12/14 | Indonesia | 2012 | \$1,315,000,000 |
| 4 | Marfin Investment Group Holdings S.A., Alexandros Bakatselos and others | Cyprus | 2013 | \$1,282,230,950 |
| 5 | Vannessa Ventures Ltd. | Venezuela | 2004 | \$1,045,000,000 |
| 6 | EVN AG | Bulgaria | 2013 | \$958,460,000 |

Table 4.15: Claims Greater Than or Equal to \$100 Million with a No Liability Finding

| Rank | Claimant(s) | Respondent | Year Registered | Claim Amount |
|------|---|----------------|-----------------|---------------|
| 7 | Electrabel S.A. | Hungary | 2007 | \$679,700,000 |
| 8 | Mesa Power Group LLC | Canada | 2011 | \$590,836,319 |
| 9 | İçkale İnşaat Limited Şirketi | Turkmenistan | 2010 | \$566,705,446 |
| 10 | World Duty Free Company Limited | Kenya | 2000 | \$500,000,000 |
| 11 | Bayindir Insaat Turizm Ticaret Ve Sanayi A.S. | Pakistan | 2003 | \$494,600,000 |
| 12 | Tulip Real Estate and Development Netherlands B.V. | Turkey | 2011 | \$450,000,000 |
| 13 | Mercuria Energy Group Limited | Poland | 2008 | \$400,000,000 |
| 14 | Vigotop Limited | Hungary | 2011 | \$394,282,380 |
| 15 | Eli Lilly and Company | Canada | 2013 | \$375,203,548 |
| 16 | Champion Trading Company and Ameritrade International, Inc. | Egypt | 2002 | \$365,171,121 |
| 17 | Invesmart BV | Czech Republic | 2007 | \$350,500,000 |
| 18 | Empresa Eléctrica del Ecuador, Inc. (EMELEC) | Ecuador | 2005 | \$326,000,000 |
| 19 | Supervision y Control S.A. | Costa Rica | 2012 | \$320,000,000 |
| 20 | Adel A Hamadi Al Tamimi | Oman | 2011 | \$273,000,000 |
| 21 | CCL | Kazakhstan | 2001 | \$243,365,137 |
| 22 | Anglo American PLC | Venezuela | 2014 | \$235,400,000 |
| 23 | Rupert Joseph Binder | Czech Republic | 2004 | \$233,000,000 |
| 24 | AES Summit Generation Limited and AES-Tisza Erözü Dft. | Hungary | 2007 | \$230,000,000 |
| 25 | Liman Caspian Oil BV and NCL Dutch Investment BV | Kazakhstan | 2007 | \$200,000,000 |
| 26 | Iberdola Energia S.A. | Guatemala | 2009 | \$188,000,000 |

Table 4.15: Claims Greater Than or Equal to \$100 Million with a No Liability Finding

| Rank | Claimant(s) | Respondent | Year Registered | Claim Amount |
|------|---|----------------|-----------------|---------------|
| 27 | Mercer International, Inc. | Canada | 2012 | \$179,956,562 |
| 28 | United Parcels Service of America Inc. | Canada | 2000 | \$160,000,000 |
| 29 | Gustav F W Hamester GmbH & Co KG | Ghana | 2007 | \$156,567,285 |
| 30 | Plama Consortium Limited | Bulgaria | 2003 | \$146,120,152 |
| 31 | Noble Ventures, Inc | Romania | 2001 | \$143,531,000 |
| 32 | EDF (Services) Limited | Romania | 2005 | \$132,576,000 |
| 33 | Spyridon Roussalis | Romania | 2006 | \$123,229,119 |
| 34 | InterTrade Holding GmbH | Czech Republic | 2009 | \$109,719,302 |
| 35 | Convial Callao S.A. y CCI – Compañía de Concesiones de Infraestructura S.A. | Peru | 2010 | \$105,000,000 |
| 36 | International Thunderbird Gaming Corporation | Mexico | 2002 | \$100,000,000 |

4.3 Claims and Awards with Liability Found

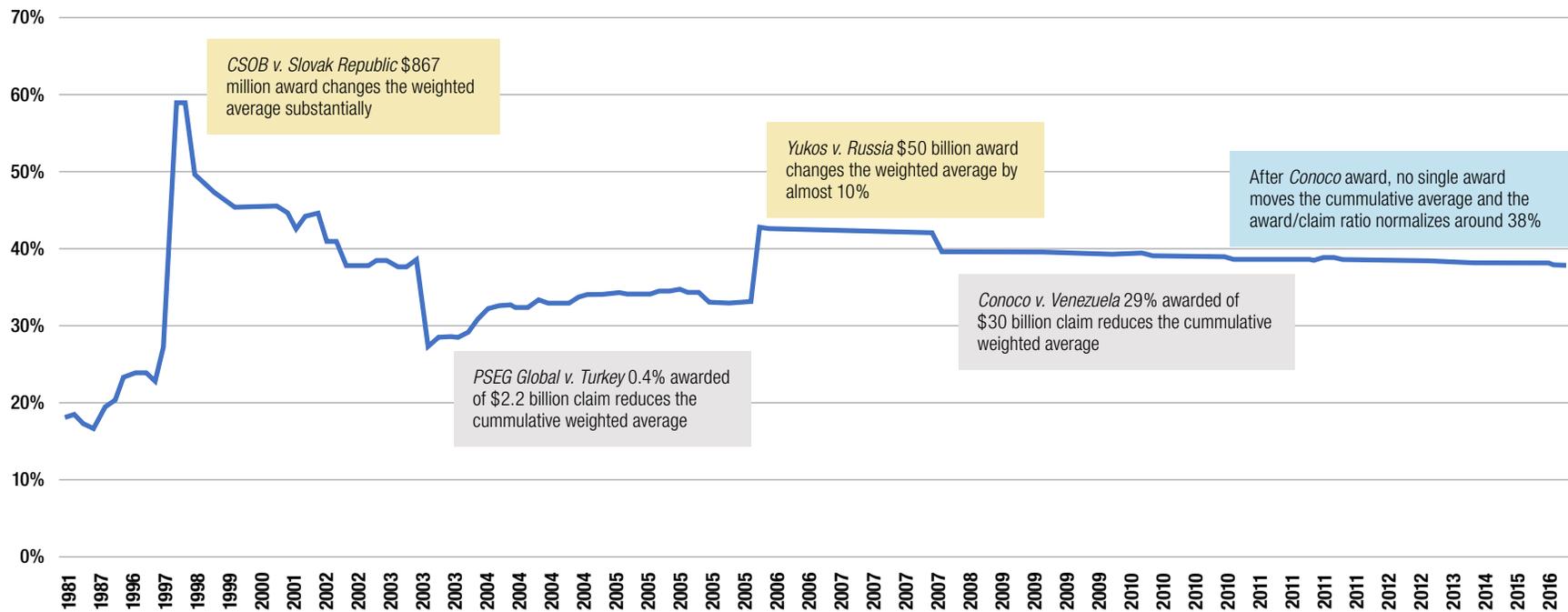
The 150 cases in which liability was found provide better insights into the question of damages. Despite 13 of these 150 awards where liability was found awarded no damages, these awards typically discuss in some detail the damages case put forward by both parties.

This group of cases involved \$190.2 billion in claims. The average of these claims was \$1.27 billion with a median claim of \$110.4 million. Again, the extremely large gap between the median and mean claims shows that there are outliers on the high end of the claim range.

As previously mentioned, two cases account for 44% of claimed damages. When the *Yukos* and *Conoco* cases are removed, the average claim drops to \$307.7 million and the median claim falls to \$103.4 million.

The figure below provides a picture over time of the relationship between the cumulative amounts of awards compared to claimed amounts for cases with liability found based on the registration year.

Figure 4.5: Cumulative Award as a Percentage of Claim



The figure above shows that for the earliest arbitrations registered from 1981 to 1997 with a finding of liability, the awards as a percentage of the claim ranged from the upper teens to the mid-twenties until the large *CSOB v. Slovak Republic* award at 76.7% of the claimed amount shot the weighted average up to near 60%. The cumulative average then declined to below 40% for cases registered from 1998 to 2002 as awards on average offset the inflation from the *CSOB* award. Then, the *PSEG Global v. Turkey* award at just 0.4% of a large \$2.2 billion claim brought the weighted average award to claim ratio to below 30%. The cumulative average then increased to the low 30% range until the 2005 *Yukos* award propelled the weighted average up almost 10% to the low 40%

range. Subsequently, only the 2007 *Conoco* award moved the weighted average in a noticeable fashion to 40%. Since then, awards have generally been on the decline to bring the weighted average of awards to claims for cases with liability found to 37.8%.

Of these 150 cases where liability was found, \$71.9 billion in damages were awarded, which represents 37.8% of the damages claimed. The average award was \$479.3 million with the median award approximating \$17.5 million. Removing the *Yukos* and *Conoco* cases reduces the average award to \$88.8 million and the median award to \$16.5 million.

The following table lists all claims that resulted in awards in excess of \$100 million. We located a public award for 27 of these cases. For the additional five cases, we relied upon news reports and investor-state websites for data.¹⁴ These \$100 million or greater award cases had an average award of 47.7%, which is higher than the 41.0% average for the 137 cases with liability found and damages awarded. Of these large awards, the three greatest awards as a percentage of claim were: (1) *Suez, Sociedad General de Aguas de Barcelona S.A. and Vivendi Universal S.A. v. Argentina* at 87.6%;

(2) *Mohamed Abdulmoshen Al-Kharafi & Sons Co. v Libya* at 81.7%; and (3) *CSOB v. Slovak Republic* at 76.7%.¹⁵ On the other end of the scale in this group of larger cases, the lowest three awards as a percentage of claim were: (1) *Ioan Micula, Viorel Micula, S.C. European Food S.A., S.C. Starmill S.R.L. and S.C. Multipack S.R.L. v. Romania* at just 14.0%; (2) *Anatolie and Gabriel Stati, Ascom Group S.A., Terra Raf Trans Trading Ltd v. Kazakhstan* at only 17.2%; and (3) *Enron Creditors Recovery Corporation v. Argentina* at 18.2%.

Table 4.16: Claims Resulting in Awards Greater Than \$100 Million

| Rank | Year Registered | Claimant(s) | Respondent(s) | Claim Amount | Award | Award as % of Claim |
|------|-----------------|--|------------------------|-------------------|------------------|---------------------|
| 1 | 2005 | Hulley Enterprises Limited (Cyprus); Yukos Universal Limited (Isle of Man); Veteran Petroleum Limited (Cyprus) | The Russian Federation | \$114,174,000,000 | \$50,020,867,798 | 43.8% |
| 2 | 2007 | ConocoPhillips Petrozuata B.V., ConocoPhillips Hamaca B.V. and ConocoPhillips Gulf of Paria B.V. | Venezuela | \$30,305,400,000 | \$8,733,046,155 | 28.8% |
| 3 | 2011 | Crystallex International Corporation | Venezuela | \$3,160,000,000 | \$1,202,000,000 | 38.0% |
| 4 | 2006 | Occidental Petroleum Corporation and Occidental Exploration and Production Company | Ecuador | \$2,359,500,000 | \$1,061,775,000 | 45.0% |
| 5 | 2012 | Rusoro Mining Ltd. | Venezuela | \$2,318,898,825 | \$967,777,002 | 41.7% |
| 6 | 2011 | Mohamed Abdulmoshen Al-Kharafi & Sons Co. | Libya | \$1,144,930,000 | \$935,000,000 | 81.7% |
| 7 | 1997 | CSOB | Slovak Republic | \$1,132,000,000 | \$867,800,000 | 76.7% |
| 8 | 2009 | Gold Reserve Inc. | Venezuela | \$1,735,124,200 | \$713,032,000 | 41.1% |

¹⁴ These are flagged with an asterisk in the “rank” column of the table.

¹⁵ We specifically exclude ranking the EDF v. Hungary award in the top in terms of recovery percentage as there is some conflicting information regarding the amount of the claim and we simply made the claim equal to the award in our data set.

Table 4.16: Claims Resulting in Awards Greater Than \$100 Million

| Rank | Year Registered | Claimant(s) | Respondent(s) | Claim Amount | Award | Award as % of Claim |
|------|-----------------|---|----------------|-----------------|---------------|---------------------|
| 9 | 2010 | Anatolie and Gabriel Stati, Ascom Group S.A., Terra Raf Trans Traiding Ltd | Kazakhstan | \$2,894,289,200 | \$497,685,101 | 17.2% |
| 10* | 2003 | Suez, Sociedad General de Aguas de Barcelona S.A. and Vivendi Universal S.A. | Argentina | \$834,100,000 | \$383,581,241 | 46.0% |
| 11 | 2008 | Burlington Resources, Inc. | Ecuador | \$1,318,755,933 | \$379,802,267 | 28.8% |
| 12 | 2011 | OI European Group B.V | Venezuela | \$929,544,714 | \$372,461,982 | 40.1% |
| 13 | 2009 | Teinver S.A., Transportes de Cercanías S.A. and Autobuses Urbanos del Sur S.A. | Argentina | \$1,590,000,000 | \$320,760,000 | 20.2% |
| 14 | 2004 | Total S.A. | Argentina | \$557,200,000 | \$269,928,000 | 48.4% |
| 15 | 2000 | CME Czech Republic BV | Czech Republic | \$495,200,000 | \$269,814,000 | 54.5% |
| 16 | 2002 | Siemens A.G. | Argentina | \$462,477,071 | \$237,838,439 | 51.4% |
| 17* | 2003 | Suez, Sociedad General de Aguas de Barcelona S.A. and Interagua Servicios Integrales de Agua S.A. | Argentina | \$257,700,000 | \$225,700,000 | 87.6% |
| 18 | 2004 | Mobil Exploration and Development Argentina Inc. Suc. Argentina and Mobil Argentina S.A. | Argentina | \$513,500,000 | \$196,241,306 | 38.2% |
| 19 | 2015 | Standard Chartered Bank (Hong Kong) Limited | Tanzania | \$352,514,258 | \$185,449,440 | 52.6% |
| 20 | 2003 | BG Group plc | Argentina | \$238,100,000 | \$185,285,486 | 77.8% |
| 21 | 2014 | PL Holding S.A.R.L. | Poland | \$528,752,000 | \$183,008,000 | 34.6% |
| 22 | 2001 | Azurix Corp. | Argentina | \$686,400,000 | \$165,240,753 | 24.1% |
| 23 | 2010 | Standard Chartered Bank (Hong Kong) Limited | Tanzania | \$214,600,000 | \$148,400,000 | 69.2% |
| 24 | 2012 | Tenaris S.A. and Talta - Trading e Marketing Sociedade Unipessoal Lda. | Venezuela | \$243,700,000 | \$137,017,887 | 56.2% |
| 25 | 2003 | EDF International S.A., SAUR International S.A. and León Participaciones Argentinas S.A. | Argentina | \$270,988,417 | \$136,138,430 | 50.2% |
| 26 | 2001 | CMS Gas Transmission Company | Argentina | \$261,100,000 | \$133,200,000 | 51.0% |

Table 4.16: Claims Resulting in Awards Greater Than \$100 Million

| Rank | Year Registered | Claimant(s) | Respondent(s) | Claim Amount | Award | Award as % of Claim |
|------|-----------------|---|---------------|---------------|---------------|---------------------|
| 27* | 2009 | EDF International S.A. | Hungary | \$132,600,000 | \$132,600,000 | 100.0% |
| 28 | 2002 | Sempra Energy International | Argentina | \$209,380,000 | \$128,250,462 | 61.3% |
| 29 | 2005 | Rumeli Telekom A.S. and Telsim Mobil Telekomunikasyon Hizmetleri A.S. | Kazakhstan | \$227,000,000 | \$125,000,000 | 55.1% |
| 30* | 2005 | Ioan Micula, Viorel Micula, S.C. European Food S.A., S.C. Starmill S.R.L. and S.C. Multipack S.R.L. | Romania | \$832,900,000 | \$116,629,455 | 14.0% |
| 31* | 2001 | Enron Creditors Recovery Corporation (formerly Enron Corporation) and Ponderosa Assets, L.P. | Argentina | \$582,000,000 | \$106,200,000 | 18.2% |
| 32 | 1997 | Compañía de Aguas del Aconquija S.A. and Vivendi Universal S.A. | Argentina | \$316,923,000 | \$105,000,000 | 33.1% |

On the other end of the spectrum, in the group of 150 cases with a finding of liability, are the 36 cases that returned awards of less than 10% of the amount claimed. First, there are 13 cases with a reported finding of liability with zero damages awarded. We note that nearly half of these cases are cases without a public award. For those cases, we relied upon news reports and investor-state websites for the reported finding of liability and the claim amounts.¹⁶

Second, are the cases that had awards equal to between 0.4% and 8.3% of the claim. The two lowest percentage return cases were: (1) *PSEG Global Inc. and Konya Ilgin Elektrik v. Turkey* with a claim over \$2.2 billion and an award of just approximately \$9 million; and (2) *Oxus Gold v. Uzbekistan* with a claim of \$1.1 billion and an award of only \$10.3 million.

Table 4.17: Claims Resulting in Awards Less Than 10% of Claim

| Rank | Year Registered | Claimant(s) | Respondent(s) | Claim Amount | Award | Award as % of Claim |
|------|-----------------|---|---------------|-----------------|-------|---------------------|
| 1* | 2010 | AES Corporation and Tau Power B.V. | Kazakhstan | \$1,290,000,000 | \$0 | 0.0% |
| 2* | 2011 | Agility for Public Warehousing Company K.S.C. | Pakistan | \$650,000,000 | \$0 | 0.0% |
| 3 | 2008 | Mohammad Ammar Al-Bahloul (Austria) | Tajikistan | \$468,470,000 | \$0 | 0.0% |

¹⁶ These are flagged with an asterisk in the “rank” column of the table.

Table 4.17: Claims Resulting in Awards Less Than 10% of Claim

| Rank | Year Registered | Claimant(s) | Respondent(s) | Claim Amount | Award | Award as % of Claim |
|------|-----------------|--|---------------------------|-----------------|--------------|---------------------|
| 4 | 1998 | Víctor Pey Casado and President Allende Foundation | Chile | \$338,300,000 | \$0 | 0.0% |
| 5 | 2010 | Luigiterzo Bosca | Lithuania | \$266,580,415 | \$0 | 0.0% |
| 6 | 2006 | Nordzucker AG | Poland | \$229,135,960 | \$0 | 0.0% |
| 7* | 2007 | Urbaser S.A. and Consorcio de Aguas Bilbao Bizkaia, Bilbao Biskaia Ur Partzuergoa | Argentina | \$211,208,658 | \$0 | 0.0% |
| 8 | 2006 | The Rompetrol Group N.V. | Romania | \$139,385,084 | \$0 | 0.0% |
| 9* | 2012 | MNSS B.V. and Recuerdo Credito Acciaio N.V. | Montenegro | \$114,500,000 | \$0 | 0.0% |
| 10* | 2015 | B3 Croatian Courier Coöperatief U.A. | Croatia | \$57,800,000 | \$0 | 0.0% |
| 11 | 2011 | Hesham Talaat M. Al-Warraq | Indonesia | \$19,671,060 | \$0 | 0.0% |
| 12 | 2005 | Biwater Gauff Limited | Tanzania | \$19,608,990 | \$0 | 0.0% |
| 13* | 1999 | Ronald S. Lauder | Czech Republic | \$0 | \$0 | 0.0% |
| 14 | 2002 | PSEG Global Inc. and Konya Ilgin Elektrik Üretim ve Ticaret Limited Sirketi | Turkey | \$2,237,420,000 | \$9,061,479 | 0.4% |
| 15 | 2011 | Oxus Gold plc | Uzbekistan | \$1,140,700,000 | \$10,299,572 | 0.9% |
| 16 | 2005 | RosInvestCo UK Ltd | The Russian Federation | \$276,100,000 | \$3,500,000 | 1.3% |
| 17 | 2012 | Georg Gavrilovic and Gavrilovic d.o.o. | Croatia | \$231,734,117 | \$3,200,000 | 1.4% |
| 18 | 2009 | Swisslion D00 Skopje | Former Yugoslav Macedonia | \$25,823,748 | \$430,150 | 1.7% |
| 19 | 2009 | Les Laboratoires Servier, S.A.S. Biofarma, S.A.S. Arts et Techniques du Progres S.A.S. | Poland | \$300,000,000 | \$5,000,000 | 1.7% |
| 20 | 1999 | Marvin Roy Feldman Karpa | Mexico | \$46,591,466 | \$928,360 | 2.0% |
| 21 | 2013 | Joseph Houben | Burundi | \$9,092,581 | \$209,340 | 2.3% |

Table 4.17: Claims Resulting in Awards Less Than 10% of Claim

| Rank | Year Registered | Claimant(s) | Respondent(s) | Claim Amount | Award | Award as % of Claim |
|------|-----------------|--|---------------|-----------------|--------------|---------------------|
| 22 | 2016 | ConocoPhillips Gulf of Paria B.V. | Venezuela | \$1,477,000,000 | \$33,700,000 | 2.3% |
| 23 | 2003 | Continental Casualty Company | Argentina | \$114,030,000 | \$2,800,000 | 2.5% |
| 24 | 2007 | Tza Yap Shum | Peru | \$20,544,751 | \$786,306 | 3.8% |
| 25 | 2014 | Bear Creek Mining Corporation | Peru | \$409,400,000 | \$18,237,592 | 4.5% |
| 26 | 2010 | Hassan Awdi, Enterprise Business Consultants, Inc. and Alfa El Corporation | Romania | \$178,251,408 | \$8,605,932 | 4.8% |
| 27* | 2013 | Windstream Energy LLC | Canada | \$394,126,972 | \$19,010,266 | 4.8% |
| 28 | 1999 | Middle East Cement Shipping and Handling Co. S.A. | Egypt | \$42,240,000 | \$2,190,430 | 5.2% |
| 29 | 2011 | Garanti Koza | Turkmenistan | \$46,100,000 | \$2,529,900 | 5.5% |
| 30 | 1998 | S.D. Myers Inc. | Canada | \$70,921,421 | \$3,867,789 | 5.5% |
| 31 | 2011 | Franck Charles Arif | Moldova | \$49,889,064 | \$2,782,794 | 5.6% |
| 32 | 1987 | Asiana Agricultural Products Limited | Sri Lanka | \$8,067,368 | \$460,000 | 5.7% |
| 33 | 2013 | South American Silver Limited (Bermuda) | Bolivia | \$307,200,000 | \$18,700,000 | 6.1% |
| 34 | 2000 | Autopista Concesionada de Venezuela, C.A. | Venezuela | \$161,566,629 | \$12,089,929 | 7.5% |
| 35 | 2010 | Antoine Abou Lahoud and Leila Bounafteh-Abou Lahoud | Congo | \$22,250,000 | \$1,728,194 | 7.8% |
| 36 | 2005 | Desert Line Project LLC | Yemen | \$246,993,064 | \$20,468,314 | 8.3% |

Of the 150 cases with a finding of liability, 44 were awarded an amount greater than or equal to half the claimed amount. We note that three of these cases are cases without a public award. For those cases, we relied upon news reports and investor-state websites for the reported finding of liability and the claim amounts.¹⁷

As a reminder, on average 37.9% of the claimed amount was ultimately awarded. Some of the cases show an award greater than the claim amount, which is often due to changes in currency conversion rates or inflation between the claim and award dates. Inclusion of pre-award interest in the award figure can also cause this to occur.

¹⁷ These are flagged with an asterisk in the “rank” column of the table.

Table 4.18: Claims Resulting in Awards Greater Than 50% of Claim

| Rank | Year Registered | Claimant(s) | Respondent(s) | Claim Amount | Award | Award as % of Claim |
|------|-----------------|---|----------------|---------------|---------------|---------------------|
| 1 | 1996 | Fedax N.V. | Venezuela | \$598,950 | \$760,195 | 126.9% |
| 2 | 2010 | Bernhard von Pezold and others | Zimbabwe | \$53,817,762 | \$64,896,339 | 120.6% |
| 3 | 2004 | Iurii Bogdanov, Agurdino-Invest, Agurdino-Chimia | Moldova | \$217,357 | \$243,214 | 111.9% |
| 4 | 2001 | Antoine Goetz and others | Burundi | \$1,200,000 | \$1,222,042 | 101.8% |
| 5* | 2009 | EDF International S.A. | Hungary | \$132,600,000 | \$132,600,000 | 100.0% |
| 6 | 2009 | Deutsche Bank AGD | Sri Lanka | \$60,368,993 | \$60,368,993 | 100.0% |
| 7 | 2001 | Repsol YPF Ecuador S.A. | Ecuador | \$13,684,279 | \$13,684,279 | 100.0% |
| 8 | 2005 | Saipem S.p.A. | Bangladesh | \$6,304,369 | \$6,304,369 | 100.0% |
| 9 | 2002 | CDC Group plc | Seychelles | \$4,291,025 | \$4,291,025 | 100.0% |
| 10 | 2010 | White Industries Australia Ltd. | India | \$4,054,133 | \$4,054,133 | 100.0% |
| 11 | 1994 | Saar Papier Vertriebs GmbH | Poland | \$1,626,246 | \$1,626,246 | 100.0% |
| 12* | 2005 | Pren Nreka | Czech Republic | \$1,500,000 | \$1,500,000 | 100.0% |
| 13 | 1999 | Patrick Mitchell | Congo | \$750,000 | \$750,000 | 100.0% |
| 14 | 1997 | Emilio Agustín Maffezini | Spain | \$155,489 | \$155,489 | 100.0% |
| 15 | 2004 | SAUR International | Argentina | \$40,255,000 | \$39,990,111 | 99.3% |
| 16 | 2007 | Astaldi S.p.A | Honduras | \$5,569,148 | \$5,488,696 | 98.6% |
| 17 | 2003 | ADC Affiliate Limited and ADC & ADMC Management Limited | Hungary | \$84,073,034 | \$76,200,000 | 90.6% |
| 18 | 1999 | SwemBalt AB | Latvia | \$2,806,258 | \$2,506,258 | 89.3% |

Table 4.18: Claims Resulting in Awards Greater Than 50% of Claim

| Rank | Year Registered | Claimant(s) | Respondent(s) | Claim Amount | Award | Award as % of Claim |
|------|-----------------|---|------------------------|-----------------|---------------|---------------------|
| 19* | 2003 | Suez, Sociedad General de Aguas de Barcelona S.A. and Interagua Servicios Integrales de Agua S.A. | Argentina | \$257,700,000 | \$225,700,000 | 87.6% |
| 20 | 1999 | Pope & Talbot Inc. | Canada | \$482,622 | \$407,646 | 84.5% |
| 21 | 2004 | OKO Pankki Oyj; VTB Bank AG; and Sampo Bank PLC | Estonia | \$30,000,000 | \$25,078,871 | 83.6% |
| 22 | 2011 | Mohamed Abdulmoshen Al-Kharafi & Sons Co. | Libya | \$1,144,930,000 | \$935,000,000 | 81.7% |
| 23 | 2015 | 9REN Holding S.a.r.l | Spain | \$57,072,640 | \$46,549,872 | 81.6% |
| 24 | 2007 | Quasar de Valores SICAV S.A., Orgor de Valores SICAV S.A., GBI 9000 SICAV S.A. and ALOS 34 S.L. | The Russian Federation | \$2,600,000 | \$2,026,480 | 77.9% |
| 25 | 2003 | BG Group plc | Argentina | \$238,100,000 | \$185,285,486 | 77.8% |
| 26 | 2005 | Bernardus Henricus Funnekotter and others | Zimbabwe | \$13,916,553 | \$10,701,035 | 76.9% |
| 27 | 1997 | CSOB | Slovak Republic | \$1,132,000,000 | \$867,800,000 | 76.7% |
| 28 | 2009 | Elsamex, S.A. | Honduras | \$11,546,089 | \$8,075,995 | 69.9% |
| 29 | 2010 | Standard Chartered Bank (Hong Kong) Limited | Tanzania | \$214,600,000 | \$148,400,000 | 69.2% |
| 30 | 2007 | SGS Société Générale de Surveillance S.A. | Paraguay | \$61,525,951 | \$39,025,951 | 63.4% |
| 31 | 2005 | Cargill, Incorporated | Mexico | \$123,813,029 | \$77,329,240 | 62.5% |
| 32 | 2006 | Vestey Group Ltd | Venezuela | \$157,347,680 | \$98,145,325 | 62.4% |
| 33 | 2002 | Sempra Energy International | Argentina | \$209,380,000 | \$128,250,462 | 61.3% |
| 34 | 2009 | Abengoa, S.A. y COFIDES, S.A. | Mexico | \$68,990,165 | \$40,085,544 | 58.1% |
| 35 | 2012 | Tenaris S.A. and Talta - Trading e Marketing Sociedade Unipessoal Lda. | Venezuela | \$243,700,000 | \$137,017,887 | 56.2% |
| 36 | 2010 | British Caribbean Bank Ltd. (Turks & Caicos) | Belize | \$45,170,734 | \$25,161,186 | 55.7% |

Table 4.18: Claims Resulting in Awards Greater Than 50% of Claim

| Rank | Year Registered | Claimant(s) | Respondent(s) | Claim Amount | Award | Award as % of Claim |
|------|-----------------|--|----------------|---------------|---------------|---------------------|
| 37 | 2005 | Rumeli Telekom A.S. and Telsim Mobil Telekomunikasyon Hizmetleri A.S. | Kazakhstan | \$227,000,000 | \$125,000,000 | 55.1% |
| 38 | 2000 | CME Czech Republic BV | Czech Republic | \$495,200,000 | \$269,814,000 | 54.5% |
| 39 | 2016 | HPK Management DOO and HPK Engineering BV | Serbia | \$20,367,268 | \$11,005,365 | 54.0% |
| 40 | 2015 | Standard Chartered Bank (Hong Kong) Limited | Tanzania | \$352,514,258 | \$185,449,440 | 52.6% |
| 41 | 2002 | Siemens A.G. | Argentina | \$462,477,071 | \$237,838,439 | 51.4% |
| 42 | 2001 | CMS Gas Transmission Company | Argentina | \$261,100,000 | \$133,200,000 | 51.0% |
| 43 | 2003 | EDF International S.A., SAUR International S.A. and León Participaciones Argentinas S.A. | Argentina | \$270,988,417 | \$136,138,430 | 50.2% |
| 44 | 2005 | Ron Fuchs and Ioannis Kardassopoulos | Georgia | \$30,200,000 | \$15,100,000 | 50.0% |

The findings show that tribunals are generally skeptical of damages claims and normally substantially discount the claim in the award. This reduction occurs both through: (1) a portion of the claim being

lost on legal grounds where multiple measures are complained about; and (2) the reduction of the claim that matches a measure in which liability was found.

4.4 Basis of Damages Awards

The most commonly relied upon bases for the awarded amounts were discounted cash flow (“DCF”), invested costs, and some measure of market value and lost profits.¹⁸ The population for this analysis includes the cases in which we located awards and liability was found, which totaled 122 of the 241 cases studied. This means we were able to identify a basis for the awards in 122 of the 150 cases with liability found.

The four bases listed above account for 78 of the 122 awards for which we identified an award method. After these top four bases, the methods disburse, although some awards were based on some measure of principal and interest or change in taxes. Of the 122 awards with an identified award method, each of the top four methods accounted for the following count and percentages of the awards.

¹⁸ In the event that the award listed numerous methods for different measures in the award and some of the methods were an immaterial portion of the award, we only listed the majority method.

Table 4.19: Most Common Basis for Awards

| Basis of Award | Case Count | Percentage of Awards |
|----------------|------------|----------------------|
| DCF | 37 | 30.3% |
| Investment | 28 | 23.0% |
| Market Value | 7 | 5.7% |
| Lost Profits | 6 | 4.9% |
| Total | 78 | 63.9% |

The table below lists all awards of \$100 million or more for which we were able to identify the tribunal's method for the award.

This list includes the top 31 awards and the basis for such damages.

Table 4.20: Basis of Damages Awards Over \$100 Million¹⁹

| Case Name | Award | Basis of Award | | | | | |
|--|------------------|----------------|------------|-----------------|--------------|------------------------|-------|
| | | DCF | Investment | Market Approach | Lost Profits | Loan or Equity Balance | Other |
| Hulley Enterprises Limited (Cyprus); Yukos Universal Limited (Isle of Man); Veteran Petroleum Limited (Cyprus) v. The Russian Federation | \$50,020,867,798 | | | 1 | | | |
| ConocoPhillips Petrozuata B.V., ConocoPhillips Hamaca B.V. and ConocoPhillips Gulf of Paria B.V. v. Venezuela | \$8,733,046,155 | 1 | | | | | |
| Crystallex International Corporation v. Venezuela | \$1,202,000,000 | | | 1 | | | |
| Occidental Petroleum Corporation and Occidental Exploration and Production Company v. Ecuador | \$1,061,775,000 | 1 | | | | | |
| Rusoro Mining Ltd. v. Venezuela | \$967,777,002 | | 0.5 | 0.5 | | | |

¹⁹ The counts less than 1 indicate that multiple methods were applied for the determination of the final award. This occurs in cases where there were more than one head of damages and the tribunal applied different methods per individual claim.

Table 4.20: Basis of Damages Awards Over \$100 Million

| Case Name | Award | Basis of Award | | | | | |
|--|---------------|----------------|------------|-----------------|--------------|------------------------|-------|
| | | DCF | Investment | Market Approach | Lost Profits | Loan or Equity Balance | Other |
| Mohamed Abdulmoshen Al-Kharafi & Sons Co. v. Libya and Others | \$935,000,000 | | 0.5 | | 0.5 | | |
| CSOB v. Slovak Republic | \$867,800,000 | | | | | 1 | |
| Gold Reserve Inc. v. Venezuela | \$713,032,000 | 1 | | | | | |
| Anatolie and Gabriel Stati, Ascom Group S.A., Terra Raf Trans Trading Ltd v. Kazakhstan | \$497,685,101 | | 1 | | | | |
| Suez, Sociedad General de Aguas de Barcelona S.A. and Vivendi Universal S.A. v. Argentina | \$383,581,241 | | | | | 1 | |
| Burlington Resources, Inc. v. Ecuador | \$379,802,267 | 1 | | | | | |
| OI European Group B.V v. Venezuela | \$372,461,982 | 1 | | | | | |
| Teinver S.A., Transportes de Cercanías S.A. and Autobuses Urbanos del Sur S.A. v. Argentina | \$320,760,000 | 1 | | | | | |
| Total S.A. v. Argentina | \$269,928,000 | 1 | | | | | |
| CME Czech Republic BV v. Czech Republic | \$269,814,000 | 1 | | | | | |
| Siemens A.G. v. Argentina | \$237,838,439 | | 1 | | | | |
| Suez, Sociedad General de Aguas de Barcelona S.A. and Interagua Servicios Integrales de Agua S.A. v. Argentina | \$225,700,000 | | | | | 1 | |
| Mobil Exploration and Development Argentina Inc. Suc. Argentina and Mobil Argentina S.A. v. Argentina | \$196,241,306 | | | | 1 | | |
| Standard Chartered Bank (Hong Kong) Limited v. Tanzania | \$185,449,440 | | | | | 1 | |
| BG Group plc v. Argentina | \$185,285,486 | 1 | | | | | |
| PL Holding S.A.R.L. v. Poland | \$183,008,000 | | | | | | 1 |
| Azurix Corp. v. Argentina | \$165,240,753 | | 1 | | | | |

Table 4.20: Basis of Damages Awards Over \$100 Million

| Case Name | Award | Basis of Award | | | | | |
|--|---------------|----------------|------------|-----------------|--------------|------------------------|-------|
| | | DCF | Investment | Market Approach | Lost Profits | Loan or Equity Balance | Other |
| Standard Chartered Bank (Hong Kong) Limited v. Tanzania Electric Supply Company Limited | \$148,400,000 | | | | | | 1 |
| Tenaris S.A. and Talta - Trading e Marketing Sociedade Unipessoal Lda. v. Venezuela | \$137,017,887 | 0.33 | | 0.67 | | | |
| EDF International S.A., SAUR International S.A. and León Participaciones Argentinas S.A. v. Argentina | \$136,138,430 | 1 | | | | | |
| CMS Gas Transmission Company v. Argentina | \$133,200,000 | 1 | | | | | |
| Sempra Energy International v. Argentina | \$128,250,462 | 1 | | | | | |
| Rumeli Telekom A.S. and Telsim Mobil Telekomunikasyon Hizmetleri A.S. v. Kazakhstan | \$125,000,000 | 1 | | | | | |
| Ioan Micula, Viorel Micula, S.C. European Food S.A., S.C. Starmill S.R.L. and S.C. Multipack S.R.L. v. Romania | \$116,629,455 | | | | 1 | | |
| Enron Creditors Recovery Corporation (formerly Enron Corporation) and Ponderosa Assets, L.P. v. Argentina | \$106,200,000 | | | 1 | | | |
| Compañía de Aguas del Aconquija S.A. and Vivendi Universal S.A. v. Argentina | \$105,000,000 | | 1 | | | | |

The table above shows the amount of the award of the largest investor-state awards and the method(s) used by the tribunal for each. The following are observations about the table above:

- DCF: The most common method used by tribunals was the DCF method. In fact, 43% of the largest awards were based on this method; however, as summarized in the prior table, DCF only accounted for 30.3% of the awards. This indicates that the largest awards relate to businesses that were operating or deemed to be near operational based on a feasibility study where the DCF method could be applied.

- Investment: The next most common method used by tribunals to issue an award was a return of the invested costs. It is not surprising that just five of the top awards were on an investment basis as the value of these awards would not have any going concern or future profits implicit in them. These businesses likely did not have sufficient history or any history of generating profits upon which to base an income or market approach.

- **Market Approach:** The market approach was applied in 13% of the awards. As stated in many awards, tribunals discard market approaches often due to a finding that the comparable companies or transactions are found to not be comparable.
- **Lost Profits:** Lost profits was the fourth most popular method for the 122 awards in which an award method was identified; yet among the top 31 awards, lost profits was used as the method in just 8% of the awards. The reason for the relatively low representation in the top group is probably due to the fact that lost profits normally is a historic measure and is often limited to the impact of a particular non-expropriatory measure with no valuation kicker for the perpetual value of the entire enterprise.
- **Loan or Equity Value:** The loan or equity value method ranked higher than lost profits in the group of awards over \$100 million likely due to the fact that in Financial Services disputes, the alleged breach is a failure to perform on a financial contract and the value of that contract is relatively straightforward to value.

5 Cost Analysis

The costs of investment treaty arbitration can appear high, but many factors need to be considered when analyzing the absolute cost, such as: (1) the amount of the damages claimed; (2) the complexity of the underlying investment, the duration of the investment and case facts; and (3) the number of years it took to arbitrate the case until the merit award, or case cycle time.

Based on the data we compiled, we analyzed the impact of the amount of the claim and the case cycle time. The complexity of the underlying investment and case fact set are beyond the scope of this study.

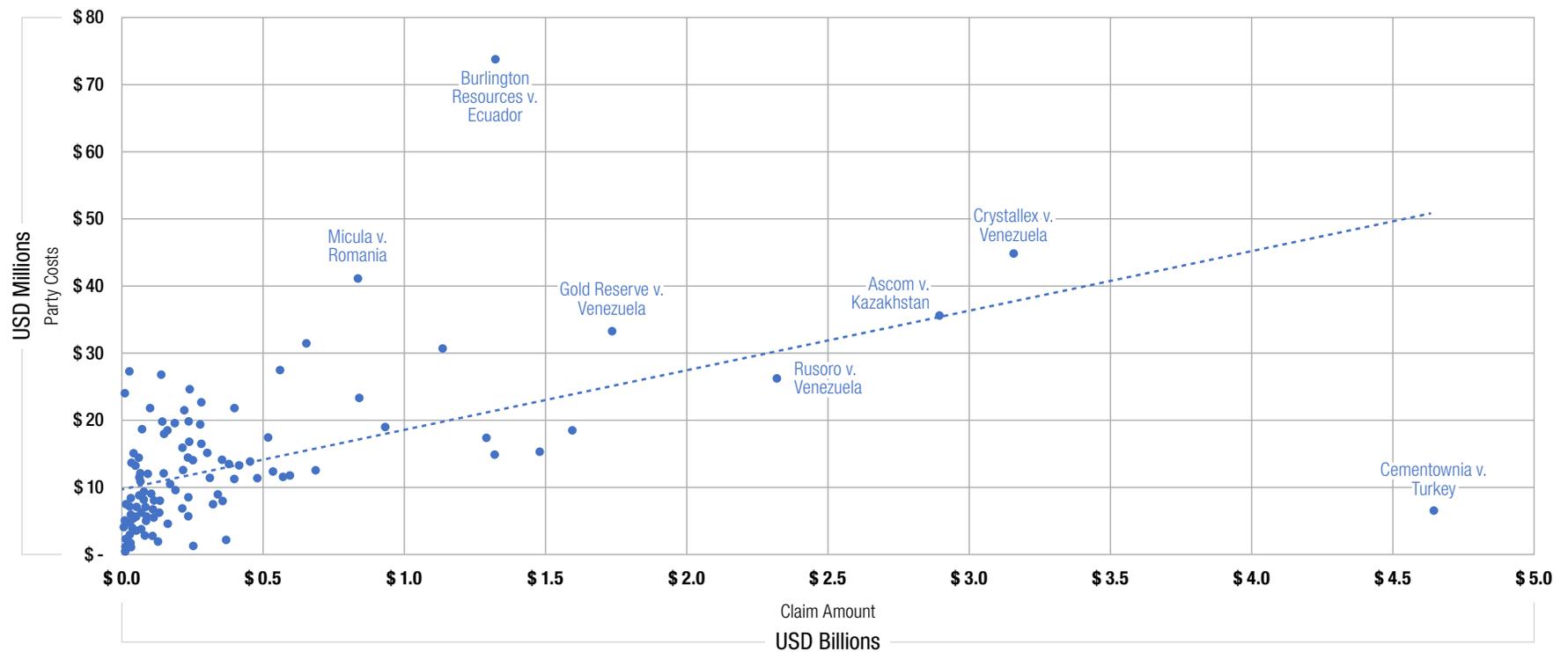
We identified 125 awards with disclosure of the costs incurred by the parties. Those 125 cases involved: (1) claims totaling \$188.7 billion; (2) aggregate party costs of \$1.75 billion; (3) \$67.8 billion in damages awarded; (4) costs of \$322.5 million awarded to one party or the other; and (5) party costs divided by total claims equal to 0.93%. These results are skewed greatly by the *Yukos* and *Conoco* cases which together account for \$234.9 million in party costs on combined claims of \$144.5 billion. When those two cases are removed, the remaining 123 cases involved: (1) claims totaling \$44.2 billion; (2) aggregate party costs of \$1.52 billion; (3) \$9.1 billion in damages awarded; (4) costs of \$236.3 million awarded to one party or the other; and (5) party costs divided by total claims equal to 3.43%.

5.1 Impact of Damages Claimed on Costs

First, we studied the relationship between the damages claimed and the total party costs.²⁰ While it is clear that there are basic costs in bringing an investment treaty arbitration and responding to one, the size of the claim as a general matter impacts the cost of the arbitration.

The figure below plots the 38 cases for which we identified both a damages claim amount and total costs of the parties.

Figure 5.1: Total Party Costs v. Claimed Damages

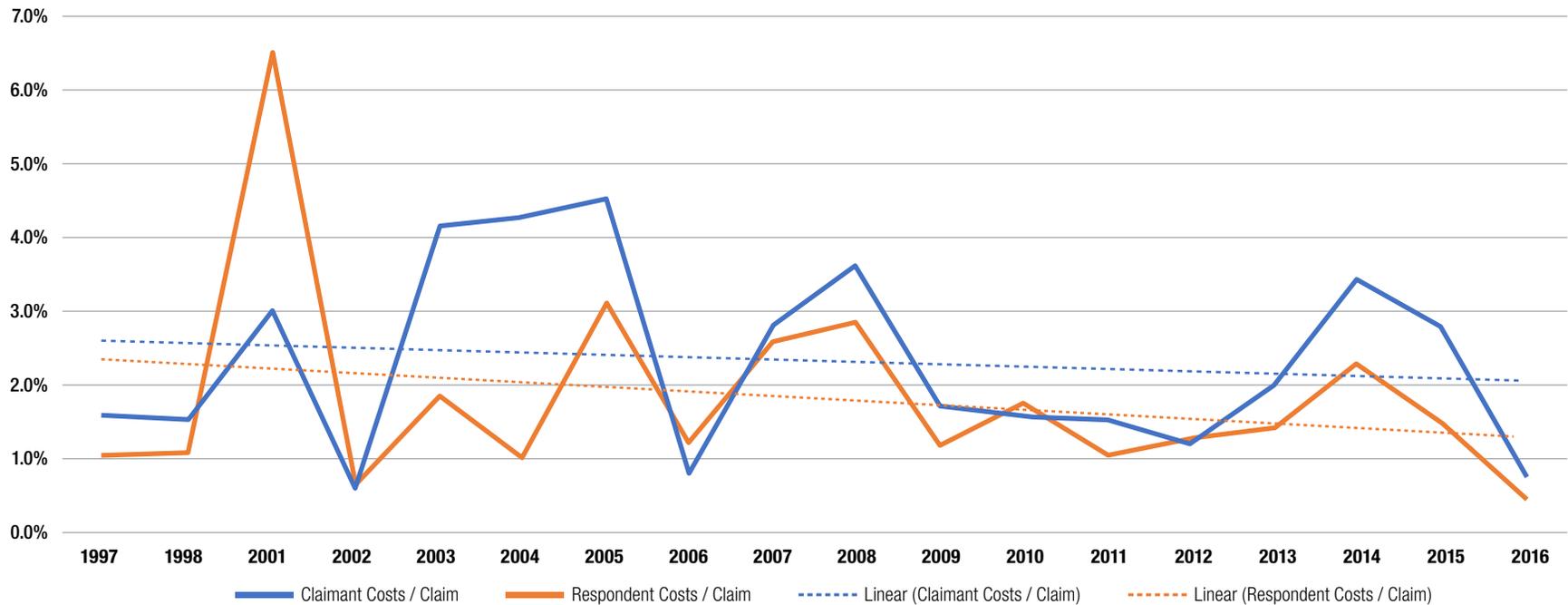


²⁰ These costs do not include tribunal fees, only each party's representation costs.

As can be seen from the linear trend line, the costs of the cases generally follow the amount at risk in damages. On average, when excluding the *Yukos* and *Conoco* cases, the parties spent \$12.3 million or 3.43% of the amount claimed.

When the relative costs between the parties are examined, claimants spent on average 57% of total costs, with respondent spending the other 43%. The chart below shows 121 of the 125 cases²¹ with reported costs with the average percentage of the claim spent by each party.

Figure 5.2: Party Costs as a Percentage of Claim by Year Filed



The trendlines in the chart above show that respondents generally spend well below claimants, yet the spending on cases as a percentage of claim is moving downward for both parties.

In 2001, there were just three cases and the respondent in the *Noble Ventures v. Romania* case spent 2.8 times the amount spent by the claimant, which skews the results compared to the norm in that year.

²¹ We excluded the *Yukos* and *Conoco* cases, the 1999 *Patrick Mitchell v. the Congo* case, and the 2017 *Anglo Adriatic v. Albania* case. We excluded 1999 and 2017 because both years had only a single case identified with a high costs to claim percentage which would have skewed the chart scale and make analyzing the general trends and relationships difficult.

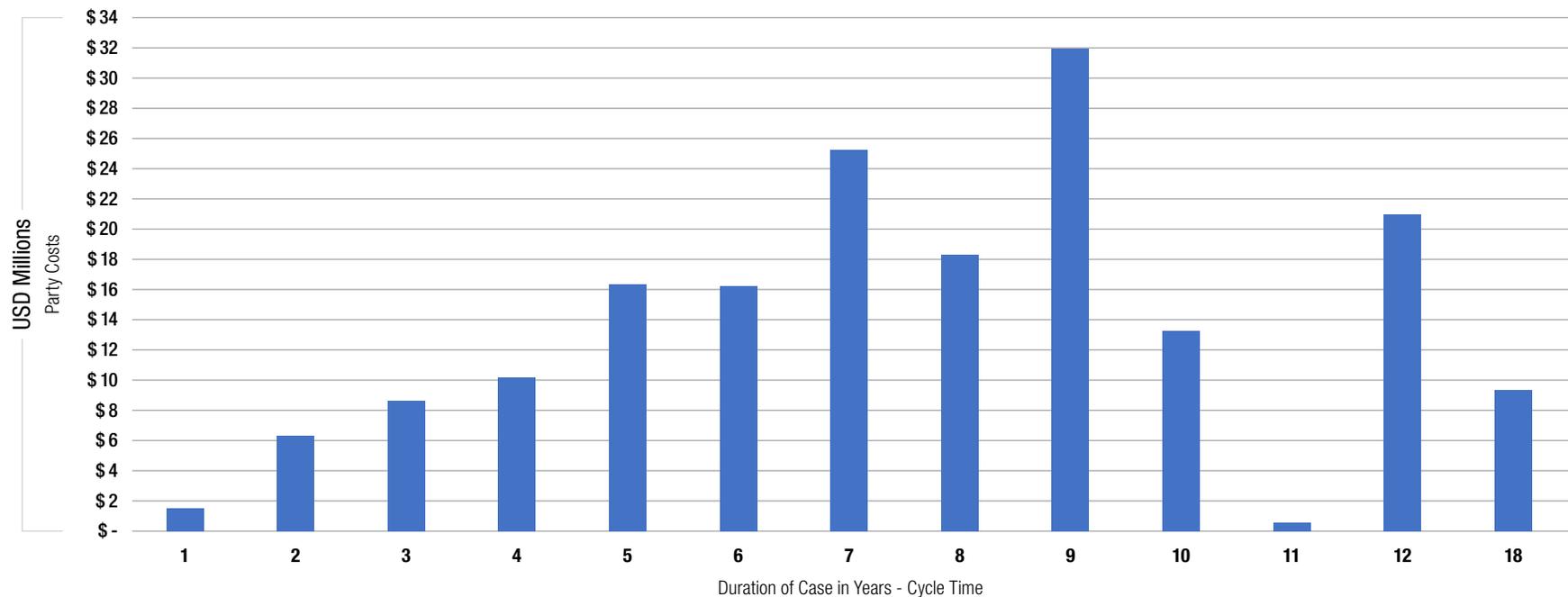
5.2 Impact of Case Duration on Costs

We considered whether the duration of the proceedings explained some of the costs as the effort parties put into a case often expands or contracts based upon time allowed. In addition to the extra work that fills extra time, long pauses or breaks in the proceedings naturally cause the participants to spend more time getting back up to speed during each subsequent phase.

The duration of a case is often referred to as cycle time. Our study indicates that longer cycle time drives higher costs.

The figure below shows the average of the reported total party costs per case by the cycle time in years for the 123 cases with reported costs, excluding *Yukos* and *Conoco*.

Figure 5.3: Average Total Party Costs per Case v. Case Cycle Time



The figure above shows that for cases lasting up to nine years, the average party costs generally increased with each year the case was pending. After a 10-year cycle time, the average spending drops.

Almost 85% of the cases were completed within six years. The 11, 12 and 18-year cycle time cases include one, two and one cases, respectively.

5.3 Impact of Party Spending on Case Outcome

Further analysis of the 125 cases with reported costs show an interesting relationship between the amount spent by each party and whether the tribunal found liability in the case. In the 47 cases with complete cost data in which respondent won on liability (no liability found), respondents outspent claimants with 53.5% of total costs – approximating the 57% of total costs that claimants spent on average across all cases with cost data, regardless of outcome.

Of the 78 cases in this set where liability was found, the claimant spent 60.5% of the costs, which was slightly more than the 57% average claimant percentage of spending for the 125 cases with cost data.

The table below lists the 30 cases with the highest total party costs, ranging from \$121.9 million down to \$17.9 million.

Table 5.1: Cases with Highest Party Costs

| Case Name | Liability | Total Party Costs | Claimant Costs | Respondent Costs | Claim Amount | Costs as % of Claim | Award | Awarded Costs | Sum of Award + Awarded Costs | ROI on Claimant Costs |
|--|-----------|-------------------|----------------|------------------|-------------------|---------------------|------------------|---------------|------------------------------|-----------------------|
| ConocoPhillips Petrozuata B.V., ConocoPhillips Hamaca B.V. and ConocoPhillips Gulf of Paria B.V. v. Venezuela | Yes | \$121,916,559 | 63,810,246 | 58,106,313 | \$30,305,400,000 | 0.40% | \$8,733,046,155 | \$20,461,000 | \$8,753,507,155 | 13718% |
| Hulley Enterprises Limited (Cyprus); Yukos Universal Limited (Isle of Man); Veteran Petroleum Limited (Cyprus) v. The Russian Federation | Yes | \$112,948,366 | 81,448,366 | 31,500,000 | \$114,174,000,000 | 0.10% | \$50,020,867,798 | \$65,729,986 | \$50,086,597,784 | 61495% |
| Burlington Resources, Inc. v. Ecuador | Yes | \$73,908,811 | 48,171,235 | 25,737,575 | \$1,318,755,933 | 5.60% | \$379,802,267 | \$0 | \$379,802,267 | 788% |
| Crystallex International Corporation v. Venezuela | Yes | \$44,816,461 | 30,493,635 | 14,322,826 | \$3,160,000,000 | 1.42% | \$1,202,000,000 | \$0 | \$1,202,000,000 | 3942% |
| Ioan Micula, Viorel Micula, S.C. European Food S.A., S.C. Starmill S.R.L. and S.C. Multipack S.R.L. v. Romania | Yes | \$41,238,967 | 25,383,265 | 15,855,702 | \$832,900,000 | 4.95% | \$116,629,455 | \$0 | \$116,629,455 | 459% |
| Anatolie and Gabriel Stati, Ascom Group S.A., Terra Raf Trans Trading Ltd v. Kazakhstan | Yes | \$35,576,109 | 17,950,993 | 17,625,116 | \$2,894,289,200 | 1.23% | \$497,685,101 | \$8,975,496 | \$506,660,597 | 2822% |

Table 5.1: Cases with Highest Party Costs

| Case Name | Liability | Total Party Costs | Claimant Costs | Respondent Costs | Claim Amount | Costs as % of Claim | Award | Awarded Costs | Sum of Award + Awarded Costs | ROI on Claimant Costs |
|---|-----------|-------------------|----------------|------------------|-----------------|---------------------|---------------|---------------|------------------------------|-----------------------|
| Gold Reserve Inc. v. Venezuela | Yes | \$33,277,896 | 20,462,628 | 12,815,268 | \$1,735,124,200 | 1.92% | \$713,032,000 | \$5,000,000 | \$718,032,000 | 3509% |
| Chevron Corporation (USA) and Texaco Petroleum Company (USA) v. Ecuador | Yes | \$31,420,120 | 13,543,189 | 17,876,931 | \$649,786,333 | 4.84% | \$77,739,694 | \$0 | \$77,739,694 | 574% |
| CSOB v. Slovak Republic | Yes | \$30,666,082 | 16,351,846 | 14,314,236 | \$1,132,000,000 | 2.71% | \$867,800,000 | \$10,000,000 | \$877,800,000 | 5368% |
| Total S.A. v. Argentina | Yes | \$27,378,583 | 24,944,339 | 2,434,243 | \$557,200,000 | 4.91% | \$269,928,000 | \$0 | \$269,928,000 | 1082% |
| Philip Morris Brand Sàrl (Switzerland), Philip Morris Products S.A. (Switzerland) and Abal Hermanos S.A. (Uruguay) v. Uruguay | No | \$27,225,879 | 16,906,045 | 10,319,834 | \$22,267,000 | 122.27% | \$0 | \$7,000,000 | | 0% |
| EDF (Services) Limited v. Romania | No | \$26,764,367 | 8,189,725 | 18,574,642 | \$132,576,000 | 20.19% | \$0 | \$6,000,000 | | 0% |
| Rusoro Mining Ltd. v. Venezuela | Yes | \$26,236,172 | 9,916,825 | 16,319,347 | \$2,318,898,825 | 1.13% | \$967,777,002 | \$3,302,500 | \$971,079,502 | 9792% |
| Anglo American PLC v. Venezuela | No | \$24,613,357 | 14,344,325 | 10,269,032 | \$235,400,000 | 10.46% | \$0 | \$0 | | 0% |
| Quasar de Valores SICAV S.A., Orgor de Valores SICAV S.A., GBI 9000 SICAV S.A. and ALOS 34 S.L. v. The Russian Federation | Yes | \$23,984,932 | 14,572,672 | 9,412,261 | \$2,600,000 | 922.50% | \$2,026,480 | \$0 | \$2,026,480 | 14% |
| Oxus Gold plc v. Uzbekistan | Yes | \$23,650,396 | 8,746,370 | 14,904,026 | \$1,140,700,000 | 2.07% | \$10,299,572 | \$0 | \$10,299,572 | 118% |
| Suez, Sociedad General de Aguas de Barcelona S.A. and Vivendi Universal S.A. v. Argentina | Yes | \$23,384,014 | 20,732,569 | 2,651,445 | \$834,100,000 | 2.80% | \$383,581,241 | \$0 | \$383,581,241 | 1850% |
| Adel A Hamadi Al Tamimi v. Oman | No | \$22,650,630 | 15,530,715 | 7,119,915 | \$273,000,000 | 8.30% | \$0 | \$5,339,936 | | 0% |
| Hrvatska Elektroprivreda d.d. v. Slovenia | Yes | \$21,774,559 | 13,177,042 | 8,597,518 | \$94,566,857 | 23.03% | \$21,685,495 | \$10,000,000 | \$31,685,495 | 240% |
| Vigotop Limited v. Hungary | No | \$21,772,256 | 10,946,672 | 10,825,584 | \$394,282,380 | 5.52% | \$0 | \$0 | | 0% |

Table 5.1: Cases with Highest Party Costs

| Case Name | Liability | Total Party Costs | Claimant Costs | Respondent Costs | Claim Amount | Costs as % of Claim | Award | Awarded Costs | Sum of Award + Awarded Costs | ROI on Claimant Costs |
|---|--------------------------|-------------------|----------------|------------------|-----------------|---------------------|---------------|---------------|------------------------------|-----------------------|
| Standard Chartered Bank (Hong Kong) Limited v. Tanzania Electric Supply Company Limited | Yes | \$21,439,983 | 4,716,049 | 16,723,935 | \$214,600,000 | 9.99% | \$148,400,000 | \$0 | \$148,400,000 | 3147% |
| Georg Gavrilovic and Gavrilovic d.o.o. v. Croatia | Yes | \$19,761,104 | 10,108,358 | 9,652,746 | \$231,734,117 | 8.53% | \$3,200,000 | \$3,032,507 | \$6,232,507 | 62% |
| The Rompetrol Group N.V. v. Romania | Yes - No damages awarded | \$19,716,802 | 8,982,345 | 10,734,457 | \$139,385,084 | 14.15% | \$0 | \$0 | | 0% |
| Mercer International, Inc. v. Canada | No | \$19,557,475 | 12,456,818 | 7,100,657 | \$179,956,562 | 10.87% | \$0 | \$6,981,074 | | 0% |
| EDF International S.A., SAUR International S.A. and León Participaciones Argentinas S.A. v. Argentina | Yes | \$19,427,057 | 15,786,491 | 3,640,567 | \$270,988,417 | 7.17% | \$136,138,430 | \$0 | \$136,138,430 | 862% |
| OI European Group B.V v. Venezuela | Yes | \$18,932,849 | 14,306,376 | 4,626,473 | \$929,544,714 | 2.04% | \$372,461,982 | \$5,250,000 | \$377,711,982 | 2640% |
| Jan Oostergetel, Theodora Laurentius v. Slovakia | No | \$18,563,254 | 2,231,290 | 16,331,964 | \$63,014,011 | 29.46% | \$0 | \$3,176,816 | | 0% |
| Teinver S.A., Transportes de Cercanías S.A. and Autobuses Urbanos del Sur S.A. v. Argentina | Yes | \$18,493,135 | 16,049,035 | 2,444,100 | \$1,590,000,000 | 1.16% | \$320,760,000 | \$3,494,807 | \$324,254,807 | 2020% |
| Vestey Group Ltd v. Venezuela | Yes | \$18,379,956 | 12,791,646 | 5,588,310 | \$157,347,680 | 11.68% | \$98,145,325 | \$0 | \$98,145,325 | 767% |
| Plama Consortium Limited v. Bulgaria | No | \$17,920,879 | 4,677,522 | 13,243,357 | \$146,120,152 | 12.26% | \$0 | \$7,000,000 | | 0% |

5.4 Return on Investment on Claimant Costs

The sheer size of the claims in investor-state cases make these matters high risks for states with high returns to compensate investors who were found to have been harmed by the state in violation of the treaty or law. We discussed above the relationship between the party costs and the amount claimed. Now we examine the relationship between the costs invested by claimants and the returns they have received in the form of an award.

In the 78 cases with a finding of liability with costs identified, claimants spent \$783.7 million in costs and were awarded \$67.8 billion in damages, which totaled \$68.1 billion when awarded costs are counted. The return on the costs invested in these 78 cases is an astounding 8,684%.

Excluding *Yukos* and *Conoco*, claimants spent \$638.4 million in costs and were awarded \$9.1 billion in damages, which totaled \$9.2 billion when awarded costs are counted. The return on the costs invested in these 76 cases is also very large at 1,443%. Of course, these awarded damages in the view of the tribunal are compensation for the taking of or damages to a valuable investment. Accordingly, this return on investment or ROI, is only the ROI on the pursuit of the claim and not a measure of ROI on the investment itself.

In the 47 cases with a finding of no liability with costs identified, claimants spent \$213.8 million and received zero return on \$12.7 billion of claims. On those same cases, respondents spent \$246.5 million in defense.

6 Interest Rate Analysis

For the cases where damages and interest were awarded, we compiled the pre-award and post-award interest rate and whether it had been awarded on a simple or compound basis. Pre-award interest was awarded in 45 of the cases reviewed, whereas post-award interest was awarded in 108 cases. The most commonly awarded variable interest rates were based on: (1) LIBOR and (2) the US treasury rate.

In many cases these variable rates were awarded plus a premium, most commonly 2%. When fixed rates were awarded, rates of 6%, 10%, and 5% were most prevalent.

The table below lists the 63 awards for which we were able to compile both pre-award and post-award interest data and whether the interest rate awarded was simple or compounded.

Table 6.1: Awards with Pre-Award and Post-Award Interest Data

| Award Year | Case Name | Awarded Pre-Award Int % | Pre-Award Simp/Comp | Awarded Post-Award Int % | Post-Award Simp/Comp |
|------------|--|---------------------------------------|---------------------|---------------------------------------|----------------------|
| 1990 | Asiana Agricultural products Limited v. Sri Lanka | 10.0% | Simple | 10.0% | Simple |
| 1998 | Frank Sedelmayer v. The Russian Federation | 10.0% | Compound | 10.0% | Compound |
| 2000 | Emilio Agustín Maffezini v. Spain | LIBOR | Compound | LIBOR | Compound |
| | Wena Hotels Limited v. Egypt | 9.0% | Compound | 9.0% | Compound |
| 2002 | Marvin Roy Feldman Karpa v. Mexico | Mexican Government Bonds CETES 28 day | Simple | Mexican Government Bonds CETES 28 day | Simple |
| | Pope & Talbot Inc. v. Canada | 5.0% | Quarterly | 5.0% | Quarterly |
| | S.D. Myers Inc. v. Canada | Canadian Prime Rate + 1% | Annually | Canadian Prime Rate + 1% | Annually |
| 2003 | AIG Capital Partners, Inc. and CJSC Tema Real Estate Company v. Kazakhstan | 18.0% | Semi-annually | 6.0% | Simple |
| | Autopista Concesionada de Venezuela, C.A. v. Venezuela | VZ Bank Rate | Simple | VZ Bank Rate | Simple |

Table 6.1: Awards with Pre-Award and Post-Award Interest Data

| Award Year | Case Name | Awarded Pre-Award Int % | Pre-Award Simp/Comp | Awarded Post-Award Int % | Post-Award Simp/Comp |
|------------|---|-------------------------|---------------------|--------------------------|---|
| | CDC Group plc v. Seychelles | 9.0% | Simple | GBP 611 per day | Simple |
| | CME Czech Republic BV v. Czech Republic | 10.0% | Simple | 10.0% | Simple |
| | Nykomb Synergetics Technology Holding AB (Sweden) v. Latvia | 6.0% | Simple | 6.0% | Simple |
| 2004 | MTD Equity Sdn. Bhd. and MTD Chile S.A. v. Chile | LIBOR | Compound | LIBOR | Compound |
| | Patrick Mitchell v. Congo | 7.8% | Simple | 7.8% | Simple |
| 2005 | CMS Gas Transmission Company v. Argentina | US 6-mth T-bill | Simple | US 6-mth T-bill | Simple if paid in 60 days; Compound semi-annually, if after 60 days post-award. |
| 2006 | Azurix Corp. v. Argentina | US 6-mth CD | Semi-annually | US 6-mth CD | Semi-annually |
| 2007 | BG Group plc v. Argentina | US 6-mth CD | Semi-annually | US 6-mth CD | Semi-annually |
| | Eastern Sugar BV v. Czech Republic | 7.0% | Simple | 7.0% | Simple |
| | Enron Creditors Recovery Corporation (formerly Enron Corporation) and Ponderosa Assets, L.P. v. Argentina | 6-mth LIBOR + 2% | Semi-annually | 6-mth LIBOR + 2% | Semi-annually |
| | LG&E Energy Corp., LG&E Capital Corp. and LG&E International Inc. v. Argentina | 6-mth US T-bill | Compound | 6-mth US T-bill | Compound |
| | PSEG Global Inc. and Konya Ilgin Elektrik Üretim ve Ticaret Limited Sirketi v. Turkey | 6-mth LIBOR + 2% | Semi-annually | 6-mth LIBOR + 2% | Semi-annually |
| 2009 | Waguih Elie George Siag and Clorinda Vecchi v. Egypt | 6-mth LIBOR | Compound | 6-mth LIBOR | Compound |
| 2010 | Ron Fuchs and Ioannis Kardassopoulos v. Georgia | 6-mth LIBOR + 4% | Semi-annually | 6-mth LIBOR + 4% | Semi-annually |
| 2011 | Chevron Corporation (USA) and Texaco Petroleum Company (USA) v. Ecuador | New York Prime Rate | Compound | New York Prime Rate | Compound |
| | El Paso Energy International Company v. Argentina | LIBOR + 2% | Compound | LIBOR + 2% | Compound |
| | Impregilo S.p.A. v. Argentina | 6.0% | Annually | 6.0% | Annually |
| | White Industries Australia Ltd. v. India | 8.0% | Simple | 8.0% | Simple |

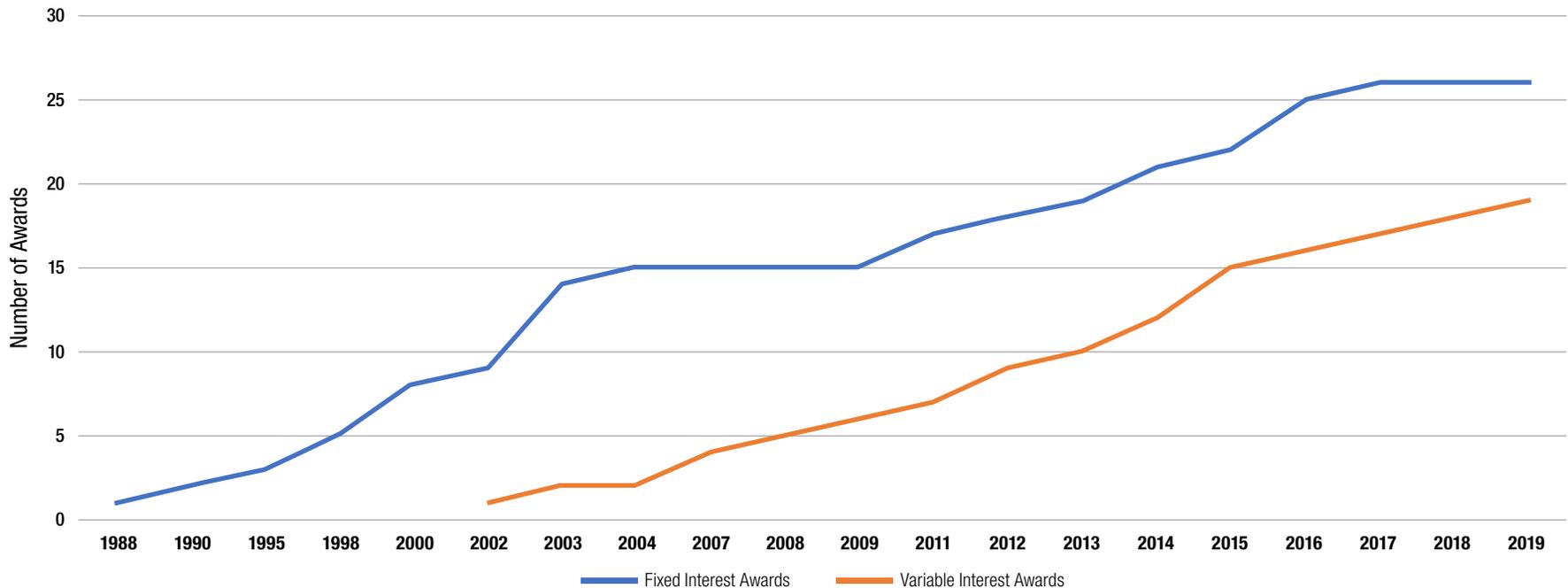
Table 6.1: Awards with Pre-Award and Post-Award Interest Data

| Award Year | Case Name | Awarded Pre-Award Int % | Pre-Award Simp/Comp | Awarded Post-Award Int % | Post-Award Simp/Comp |
|------------|---|--|---------------------|---|----------------------|
| 2012 | Achmea B.V. v. Slovak Republic | Eurozone official rate for “main refinancing operations” + 2% | Compound | Eurozone official rate for “main refinancing operations” + 2% | Compound |
| | EDF International S.A., SAUR International S.A. and León Participaciones Argentinas S.A. v. Argentina | 10-yr US Treasury bond | Compound | 10-yr US Treasury bond | Compound |
| | Occidental Petroleum Corporation and Occidental Exploration and Production Company v. Ecuador | 4.2% | Annually | 6-mth LIBOR | Monthly |
| | Quasar de Valores SICAV S.A., Orgor de Valores SICAV S.A., GBI 9000 SICAV S.A. and ALOS 34 S.L. v. The Russian Federation | 6.4% | Annually | 6.4% | Annually |
| | SGS Société Générale de Surveillance S.A. v. Paraguay | LIBOR + 1% | Simple | LIBOR + 1% | Simple |
| | Swisslion DOO Skopje v. Former Yugoslav Macedonia | LIBOR | Semi-annually | LIBOR | Semi-annually |
| 2013 | Abengoa, S.A. y COFIDES, S.A. v. Mexico | 5.0% | Annually | 5.0% | Annually |
| | Ioan Micula, Viorel Micula, S.C. European Food S.A., S.C. Starmill S.R.L. and S.C. Multipack S.R.L. v. Romania | ROBOR 3-mth + 5% | Compound | ROBOR 3-mth + 5% | Compound |
| | Total S.A. v. Argentina | US T-Bill | Annually | US T-Bill | Annually |
| 2014 | Antoine Abou Lahoud and Leila Bounafeh-Abou Lahoud v. Congo | LIBOR + 2% | Simple | LIBOR + 2% | Simple |
| | British Caribbean Bank Ltd. (Turks & Caicos) v. Belize | 12% for Telemedia Facility, 8% for Sunshine Facility and Sunshine Overdraft Facility | Compound | 3-mth LIBOR + 2% | Compound |
| | Gold Reserve Inc. v. Venezuela | US T-Bill | Annually | LIBOR + 2% | Annually |
| | Guaracachi America, Inc. and Rurelec plc v. Bolivia | 5.6% | Compound | 5.6% | Compound |
| | SAUR International v. Argentina | 6.0% | Annually | 6.0% | Annually |
| | Valeri Belokon v. Kyrgyz Republic | U.S. dollar deposits in Latvia | Annually | 4.5% | Annually |
| 2015 | Hassan Awdi, Enterprise Business Consultants, Inc. and Alfa El Corporation v. Romania | EURIBOR + 2% | Semi-annually | EURIBOR + 2% | Semi-annually |
| | Hrvatska Elektroprivreda d.d. v. Slovenia | EURIBOR + 2% | Semi-annually | EURIBOR + 2% | Semi-annually |
| | OI European Group B.V v. Venezuela | LIBOR + 4% | Annually | LIBOR + 4% | Annually |

Table 6.1: Awards with Pre-Award and Post-Award Interest Data

| Award Year | Case Name | Awarded Pre-Award Int % | Pre-Award Simp/Comp | Awarded Post-Award Int % | Post-Award Simp/Comp |
|------------|---|---------------------------------|---------------------|---------------------------------|----------------------|
| | Suez, Sociedad General de Aguas de Barcelona S.A. and Vivendi Universal S.A. v. Argentina | US 6-mth T-Bill | Semi-annually | US 6-mth T-Bill | Semi-annually |
| 2016 | Copper Mesa Mining Corporation v. Ecuador | US 6-mth T-Bill + 3% | Compound | US 6-mth T-Bill + 3% | Compound |
| | Crystallex International Corporation v. Venezuela | 6-mth LIBOR + 1% | Annually | 6-mth LIBOR + 1% | Annually |
| | Mobil Exploration and Development Argentina Inc. Suc. Argentina and Mobil Argentina S.A. v. Argentina | 6.0% | Annually | 6.0% | Annually |
| | Rusoro Mining Ltd. v. Venezuela | LIBOR + 4% | Annually | LIBOR + 4% | Annually |
| | Standard Chartered Bank (Hong Kong) Limited v. Tanzania Electric Supply Company Limited | 3-mth LIBOR + 4% | Simple | LIBOR + 4% | Simple |
| | Tenaris S.A. and Talta - Trading e Marketing Sociedade Unipessoal Lda. v. Venezuela | 9.0% | Semi-annually | 9.0% | Semi-annually |
| | Vestey Group Ltd v. Venezuela | US 6-mth treasury bond | Semi-annually | US 6-mth treasury bond | Semi-annually |
| 2017 | Bear Creek Mining Corporation v. Peru | 5.0% | Quarterly | 5.0% | Quarterly |
| | Burlington Resources, Inc. v. Ecuador | 3-mth LIBOR + 2% | Annually | 3-mth LIBOR + 2% | Annually |
| | Murphy Exploration & Production Company – International v. Ecuador | LIBOR + 4% | Compound | LIBOR + 4% | Compound |
| | Saint-Gobain Performance Plastics Europe v. Venezuela | 6-mth US T-bill + 2% | Annually | 6-mth US T-bill + 2% | Annually |
| | Teinver S.A., Transportes de Cercanías S.A. and Autobuses Urbanos del Sur S.A. v. Argentina | 6-mth US T-bill | Semi-annually | 6-mth US T-bill | Semi-annually |
| 2018 | Georg Gavrilovic and Gavrilovic d.o.o. v. Croatia | LIBOR + 2% | Annually | LIBOR + 2% | Annually |
| | HPK Management DOO and HPK Engineering BV v. Serbia | Range between 8.625% and 12.25% | Simple | Range between 8.625% and 12.25% | Simple |
| 2019 | 9REN Holding S.a.r.l v. Spain | 5-yr Spanish Govt bond yield | Annually | 5-yr Spanish Govt bond yield | Annually |
| | ConocoPhillips Petrozuata B.V., ConocoPhillips Hamaca B.V. and ConocoPhillips Gulf of Paria B.V. v. Venezuela | 5.5% | Compound | 5.5% | Compound |
| | SolEs Badajoz GmbH v. Spain | 1.7% | Quarterly | 1.7% | Quarterly |

Figure 6.1:
Cumulative Count of Awards with Pre-Award Interest by Type

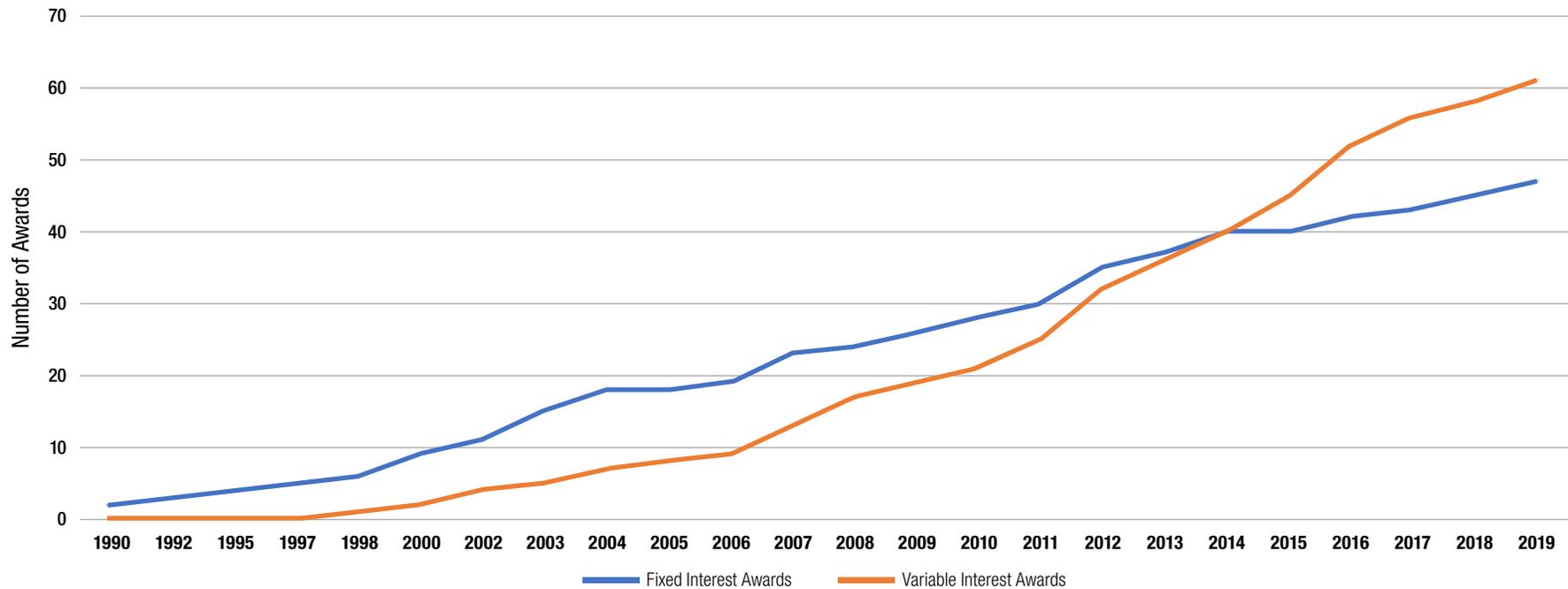


The figure below plots the cumulative number of awards that included a fixed interest rate versus a floating interest rate, such as LIBOR, for pre-award interest by award year.

Per the figure above, fixed interest awards have been preferred in total by tribunals for pre-award interest. The chart also shows that a variable pre-award rate was not awarded until 2002 when there had already been nine awards with fixed rates awarded. Since 2002, the awards with pre-award interest of fixed or variable rates have been about equal with 17 awards of fixed rates and 19 awards of variable rates. Since historic interest rates were available to the tribunals, this may explain why fixed rates were common for pre-award interest awards.

However, when we reviewed the larger population of awards with a post-interest award, we noted that in 2014, variable or floating interest rates surpassed fixed rates in total awards as shown in the figure below.

Figure 6.2: Cumulative Count of Awards with Post-Award Interest by Type



Converse to the observation of pre-award interest rates regarding the awarding of fixed rates, for post-award interest, the future rates are not knowable which may explain why tribunals have been increasingly awarding variable rates that float with the market.

7 Arbitrator Analysis

We identified 283 different arbitrators as participants in the 241 cases included in the study. Many of the arbitrators, 170 of them, served only one time. As such, 113 arbitrators served more than once. However, only 38 arbitrators sat on tribunals in five or more

cases and in this group, they averaged over nine cases each. If the single case arbitrators are excluded, the arbitrators identified were involved in 4.8 cases on average.

Table 7.1: Arbitrators with Five or More Cases (in alphabetical order)

| | | |
|------------------------|---------------------------|-------------------------|
| Stanimir A. Alexandrov | L. Yves Fortier | Daniel Price |
| Henri Alvarez | Emmanuel Gaillard | Michael Pryles |
| Franklin Berman | Horacio A. Grigera Naón | Andrés Rigo Sureda |
| Piero Bernardini | Gilbert Guillaume | J. William Rowley |
| Karl-Heinz Böckstiegel | Bernard Hanotiau | Philippe Sands |
| Charles Brower | Marc Lalonde | Brigitte Stern |
| Andreas Bucher | Toby Landau | Pierre Tercier |
| James Crawford | Vaughan Lowe | Christopher Thomas |
| Bernardo Cremades | Gabrielle Kaufmann-Kohler | Albert Jan van den Berg |
| Yves Derains | Alexis Mourre | V.V. Veeder |
| Pierre-Marie Dupuy | Rodrigo Oreamuno | Claus von Wobeser |
| Ahmed Sadek El-Kosheri | Francisco Orrego Vicuña | David A.R. Williams |
| Juan Fernández-Armesto | Jan Paulsson | |

The table below shows some basic statistics on the twelve arbitrators who were involved in ten or more awards. The table tallies the: (1) number of cases; (2) finding on liability; (3) case outcome; (4) total amount claimed; (5) total amount awarded; and (6) the awarded amounts as a percentage of claimed amounts. We categorized the case as a claimant win if the amount awarded was greater than 50% of the amount claimed, or as a respondent win if

the amount awarded was less than 20% of the claimed amount. If the award was between 20% and 50% of the claimed amount, we classified the case as a draw.

Consistent with the first edition of this study, we masked the identities of the arbitrators to reduce the ability for this data to be used in arbitrator challenges or other such activity.

Table 7.2: Arbitrators with Ten or More Cases²²

| Arbitrator | Total Cases | Liability | | | Outcome | | | Total Amount Claimed | Total Amount Awarded | Award as a % of Claim |
|--------------|-------------|-----------|------------|-----------------------------|--------------|-----------|----------------|--------------------------|-------------------------|-----------------------|
| | | No | Yes | Yes, but No Damages Awarded | Claimant Win | Draw | Respondent Win | | | |
| A | 23 | 11 | 9 | 3 | 2 | 2 | 19 | \$8,879,787,039 | \$1,838,225,066 | 20.7% |
| B | 18 | 7 | 11 | 0 | 4 | 4 | 10 | \$8,971,930,473 | \$1,377,750,876 | 15.4% |
| C | 16 | 8 | 8 | 0 | 4 | 3 | 9 | \$3,922,853,441 | \$588,568,741 | 15.0% |
| D | 15 | 2 | 11 | 2 | 4 | 3 | 8 | \$8,521,650,711 | \$685,199,744 | 8.0% |
| E | 15 | 3 | 12 | 0 | 4 | 5 | 6 | \$7,620,840,240 | \$1,897,751,053 | 24.9% |
| F | 15 | 4 | 10 | 1 | 2 | 7 | 6 | \$150,582,651,043 | \$59,975,208,274 | 39.8% |
| G | 14 | 4 | 9 | 1 | 4 | 3 | 7 | \$4,346,149,770 | \$541,971,890 | 12.5% |
| H | 13 | 4 | 7 | 2 | 3 | 1 | 9 | \$2,723,330,437 | \$326,562,476 | 12.0% |
| I | 12 | 4 | 7 | 1 | 0 | 3 | 9 | \$1,124,739,896 | \$93,740,576 | 8.3% |
| J | 12 | 5 | 7 | 0 | 1 | 8 | 3 | \$4,469,258,608 | \$1,834,459,668 | 41.0% |
| K | 12 | 5 | 6 | 1 | 2 | 7 | 3 | \$3,170,497,054 | \$133,421,932 | 4.2% |
| L | 11 | 4 | 7 | 0 | 1 | 0 | 10 | \$5,407,220,236 | \$744,042,746 | 13.8% |
| Total | 176 | 61 | 104 | 11 | 31 | 46 | 99 | \$209,740,908,948 | \$70,036,903,042 | 33.4% |

²² Note that the total claims and total award include some double counting as there is overlap between these top arbitrators in terms of the same tribunals on which they have served.

This ranking of the most active arbitrators shows that the average damages awarded in all their cases has been over 33%. However, they found liability in over 65% of the cases in which they have been involved.

Next we endeavored to find trends in their decisions, mainly

Table 7.3: Methodologies Applied by Arbitrator

| Arbitrator | Cases with Liability | Liability Found, but no damages Awarded | DCF | Investment | % of Total Cases with Liability | % of Cases with Damages Awarded |
|--------------|----------------------|---|-----------|------------|---------------------------------|---------------------------------|
| A | 12 | 3 | 4 | 1 | 42% | 56% |
| B | 11 | 0 | 2 | 2 | 36% | 36% |
| C | 8 | 0 | 2 | 0 | 25% | 25% |
| D | 13 | 2 | 5 | 2 | 54% | 64% |
| E | 12 | 0 | 4 | 3 | 58% | 58% |
| F | 11 | 1 | 4 | 0 | 36% | 40% |
| G | 10 | 1 | 2 | 2 | 40% | 44% |
| H | 9 | 2 | 3 | 0 | 33% | 43% |
| I | 8 | 1 | 1 | 2 | 38% | 43% |
| J | 7 | 0 | 2 | 1 | 43% | 43% |
| K | 7 | 1 | 1 | 2 | 43% | 50% |
| L | 7 | 0 | 0 | 3 | 43% | 43% |
| Total | 115 | 11 | 30 | 18 | 42% | 46% |

relating to the methodology applied when issuing an award and the interest rates awarded.

Not surprisingly, based on our analysis detailed in Section 4.4 above, the most common methodologies applied by the most active arbitrators were the DCF and the Investment amount. The table below lists each arbitrator with the number of cases where liability was found and the count of cases where the DCF and Investment methodologies were used to determine the award amount.

The DFC and Investment methodologies were applied in 42% of the total cases arbitrated by the most active arbitrators. If we exclude the 11 cases where liability was found, but no damages were awarded, these methodologies are the basis of 46% of the cases heard by this group of arbitrators.

Our analysis on the interest rates awarded by arbitrator is caveated by the fact that we do not have a complete data set for the 115 cases where liability was found. In some cases, pre-award interest

is included in the awarded amount, without specification of the rate applied. Further, we do not have pre-award and post-award interest rates for all these cases. For some cases we only have one component, whereas for others we have no datapoints on interest. Nonetheless, with the data that we were able to compile, we note that these active arbitrators seem to prefer interest rates based on LIBOR, in most cases with the addition of a premium. The application of a fixed interest rate is the second most common approach, with a US risk free rate as the third option.

Table 7.4: Interest Rates Awarded by Arbitrator

| Arbitrator | Pre-Award Interest | | | Post-Award Interest | | |
|--------------|--------------------|------------|-------------------|---------------------|------------|-------------------|
| | LIBOR | Fixed Rate | US Risk Free Rate | LIBOR | Fixed Rate | US Risk Free Rate |
| A | 5 | 3 | 0 | 6 | 1 | 0 |
| B | 3 | 0 | 3 | 2 | 2 | 3 |
| C | 0 | 1 | 3 | 1 | 1 | 3 |
| D | 3 | 2 | 2 | 2 | 4 | 2 |
| E | 8 | 2 | 1 | 7 | 1 | 1 |
| F | 2 | 3 | 0 | 4 | 3 | 0 |
| G | 0 | 3 | 2 | 0 | 6 | 2 |
| H | 2 | 2 | 0 | 3 | 2 | 0 |
| I | 0 | 0 | 2 | 0 | 0 | 1 |
| J | 1 | 2 | 1 | 2 | 4 | 0 |
| K | 0 | 1 | 1 | 1 | 1 | 1 |
| L | 0 | 1 | 2 | 1 | 2 | 1 |
| Total | 24 | 20 | 17 | 29 | 27 | 14 |

8 Ranking Methodology

Compilation of the data for this study has provided a rich data set for analyzing the reported decisions to date for the professionals involved: law firms and damages experts.

Overall, we scored the various participants using a number of metrics. The scoring is meant to identify a measure of the number and size of cases handled and also to assign a win, loss, or draw to the case based upon results.

As in the first edition of our study, we defined the attributes that resulted in wins, losses and draws in each case and analyzed the results of each case based on results reported in the awards or other publicly available sources.

For the law firms and the experts instructed by either a claimant or respondent in each case, we devised two scoring systems to categorize each case as a claimant win, respondent win, or a draw.

The scoring system works as follows:

1. We categorized the case as a respondent win if:
 - (a) they were **not found liable**, or
 - (b) they were found liable but were only ordered to **pay less than 20% of the claimed damages**. We chose 20% for this threshold because approximately the bottom third of the cases were awarded damages below 20% of the claimed amount and an award below this level means that a very large majority of the damages claimed were denied.
2. We categorized the case as a **claimant win** if **damages over 50% of the claimed amount** were awarded. We chose 50% for this threshold because approximately the top third of cases were awarded damages above 50%.
3. If the damages awarded were between **20% and 50%**, we categorized the case as a draw.

The table below summarizes the number of awards that earned scores in each category of claimant win, draw or respondent win.

Table 8.1: Case Outcome for All Cases

| Outcome | Awards | % of Total Awards |
|-------------------|------------|-------------------|
| Claimant win | 43 | 17.8% |
| Draw | 47 | 19.5% |
| Respondent win | 147 | 61.0% |
| Insufficient data | 4 | 1.7% |
| Total | 241 | |

The table below summarizes the number of awards with a finding of liability that earned scores in each category of claimant win, draw or respondent win.

Table 8.2: Case Outcome for Cases with Liability Found

| Outcome | Awards | % of Total Awards |
|-------------------|------------|-------------------|
| Claimant win | 43 | 28.67% |
| Draw | 47 | 31.33% |
| Respondent win | 59 | 39.33% |
| Insufficient data | 1 | 0.67% |
| Total | 150 | |

Next, we scored the cases on two different scales – one which was “unweighted” and another where we “weighted” results for claimants and respondents differently.

- The unweighted scoring is simple – one point was awarded for a win, no points were scored in a draw, and one point was deducted for a loss.
- The weighted system accounts for the relative difficulty for achieving a claimant win, as a large number of the merit awards found that the claimant lost on liability.
 - On the claimant side a win equals three points, a draw is one point, and a loss is zero.
 - On the respondent side a win equals two points, a draw is one point, and loss is negative one point.

We believe that these two different scoring systems provide alternative bases to evaluate the results achieved by law firm and by expert.

9 Law Firm Analysis

Analysis of the law firms is complex as there are many different factors that might be important to a client in selecting a firm for future work. In addition, with the amount of movement of individual lawyers between firms, a current analysis of a firm’s experience might be better based on the experience of the lawyers currently on their roster, not those who have moved on. Finally, representing claimants and respondents has certain inherent differences, including some degree of control on part of claimant’s counsel on analyzing the validity of both the claim(s) and reasonableness of the damages before filing the claim. On the other hand, the respondent’s counsel needs to react to claims, whether substantive or failing basic reasonableness standards. Accordingly, we prepared a variety of law firm rankings.

9.1 Law Firm Ranking by Number of Merit Awards

Based on the 241 awards included in the analysis for this edition of the study, there are 30 law firms that have been involved in five or more cases that have proceeded to merit awards.

Table 9.1: Law Firms Ranked by Number of Merit Awards

| Rank | Law Firm | Merit Awards |
|------|--------------------------------------|--------------|
| 1 | Freshfields Bruckhaus Deringer | 31 |
| 2 | White & Case | 24 |
| 3 | King & Spalding | 19 |
| 4 | Arnold & Porter | 12 |
| 5 | Allen & Overy | 11 |
| 5 | Foley Hoag | 11 |
| 5 | Sidley Austin | 11 |
| 8 | Shearman & Sterling | 10 |
| 9 | Curtis, Mallet-Prevost, Colt & Mosle | 9 |
| 10 | Clifford Chance | 8 |
| 10 | Appleton & Associates | 8 |
| 10 | Latham & Watkins | 8 |
| 13 | Debevoise & Plimpton | 7 |
| 13 | Covington & Burling | 7 |

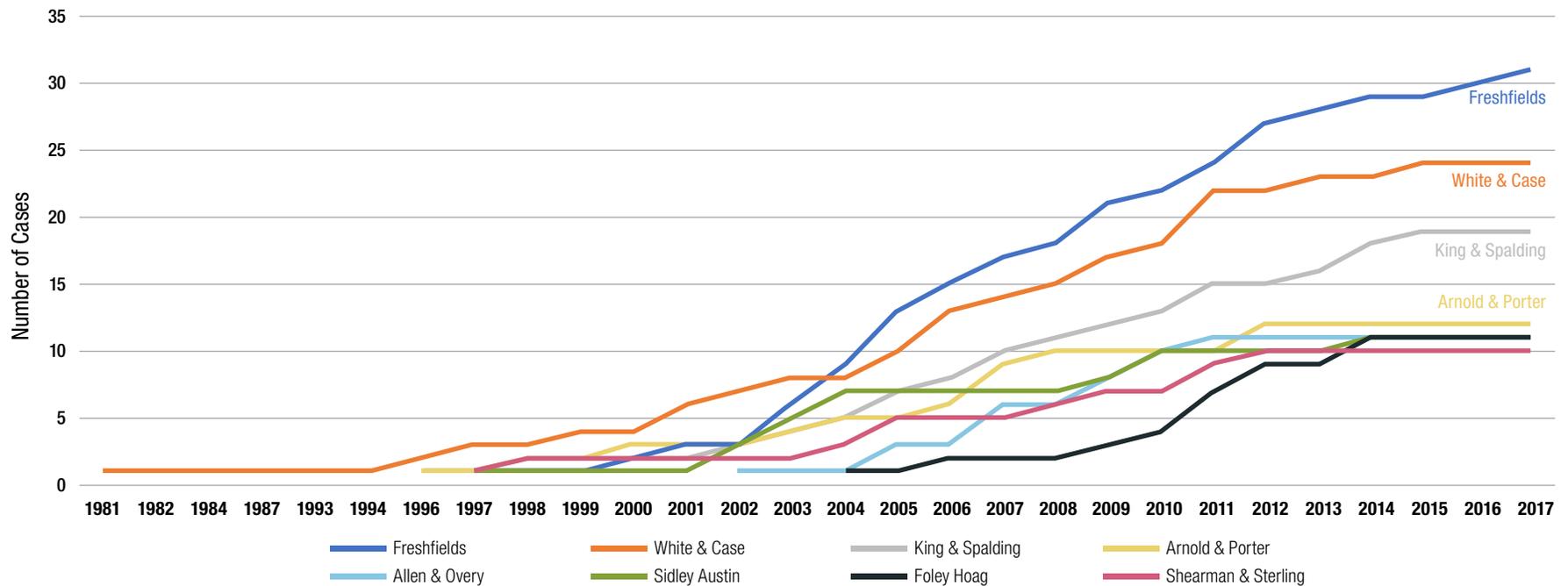
The table on the right shows that Freshfields and White & Case are the only two firms with more than 20 cases. King & Spalding has 19 representations with Arnold & Porter leading the group of five firms clustered between ten and twelve cases.

If we look at the firms that have ten or more cases over time, we can see that the market is becoming more competitive. The figure below shows that White & Case was the pioneer, with more than five cases as counsel by 2001, before any other firm from the group above had four cases. Foley Hoag was the last firm in this top grouping to enter the scene in 2004, yet quickly gained momentum in case count surpassing Shearman & Sterling and catching up to Allen & Overy and Sidley Austin in 10 years.

Table 9.1: Law Firms Ranked by Number of Merit Awards

| Rank | Law Firm | Merit Awards |
|------|---------------------------------|--------------|
| 15 | Herbert Smith Freehills | 6 |
| 15 | Baker & McKenzie | 6 |
| 15 | Linklaters | 6 |
| 15 | Pillsbury Winthrop Shaw Pittman | 6 |
| 19 | Derains & Gharavi | 5 |
| 19 | DLA Piper | 5 |
| 19 | Thomas & Partners | 5 |
| 19 | Dechert | 5 |
| 19 | Lalive | 5 |
| 19 | Crowell & Moring | 5 |
| 19 | Baker Botts | 5 |
| 19 | Mannheimer Swartling | 5 |
| 19 | Grischenko & Partners | 5 |
| 19 | Salans | 5 |
| 19 | Hughes Hubbard & Reed | 5 |
| 19 | Norton Rose Fulbright | 5 |

Figure 9.1: Cumulative Number of Cases for Firms with 10 or More Awards



9.2 Law Firm Ranking by Value of Claims Handled

We ranked the same 30 law firms listed above that have served as counsel in five or more investor-state cases based on aggregate claim total.

Table 9.2: Law Firms Ranked by Aggregate Claim Amount

| Rank | Law Firm | Merit Awards | Total Claimed Amounts | Average Claim Size |
|------|--------------------------------------|--------------|-----------------------|--------------------|
| 1 | Shearman & Sterling | 10 | \$117,965,423,622 | \$11,796,542,362 |
| 2 | Baker Botts | 5 | \$114,334,615,439 | \$22,866,923,088 |
| 3 | Freshfields Bruckhaus Deringer | 31 | \$50,234,009,471 | \$1,620,451,918 |
| 4 | Curtis, Mallet-Prevost, Colt & Mosle | 9 | \$34,552,209,704 | \$3,839,134,412 |

Table 9.2: Law Firms Ranked by Aggregate Claim Amount

| Rank | Law Firm | Merit Awards | Total Claimed Amounts | Average Claim Size |
|------|-------------------------|--------------|-----------------------|--------------------|
| 5 | King & Spalding | 19 | \$11,602,830,609 | \$610,675,295 |
| 6 | Foley Hoag | 11 | \$10,218,622,183 | \$928,965,653 |
| 7 | Grischenko & Partners | 5 | \$9,569,987,341 | \$1,913,997,468 |
| 8 | White & Case | 24 | \$9,024,136,854 | \$376,005,702 |
| 9 | Mannheimer Swartling | 5 | \$5,199,340,122 | \$1,039,868,024 |
| 10 | Dechert | 5 | \$4,226,855,933 | \$845,371,187 |
| 11 | Hughes Hubbard & Reed | 5 | \$4,067,980,415 | \$813,596,083 |
| 12 | Sidley Austin | 11 | \$3,766,901,511 | \$342,445,592 |
| 13 | Arnold & Porter | 12 | \$3,602,153,373 | \$300,179,448 |
| 14 | Debevoise & Plimpton | 7 | \$3,580,925,701 | \$511,560,814 |
| 15 | Covington & Burling | 7 | \$3,277,803,548 | \$468,257,650 |
| 16 | Clifford Chance | 8 | \$3,275,963,199 | \$409,495,400 |
| 17 | Norton Rose Fulbright | 5 | \$3,129,800,662 | \$625,960,132 |
| 18 | Allen & Overy | 11 | \$2,835,251,349 | \$257,750,123 |
| 19 | Linklaters | 6 | \$1,564,718,758 | \$260,786,460 |
| 20 | Derains & Gharavi | 6 | \$1,284,311,860 | \$214,051,977 |
| 21 | Appleton & Associates | 8 | \$1,156,207,142 | \$144,525,893 |
| 22 | Lalive | 5 | \$859,603,492 | \$171,920,698 |
| 23 | Salans | 5 | \$849,825,081 | \$169,965,016 |
| 24 | DLA Piper | 5 | \$842,389,064 | \$168,477,813 |
| 25 | Crowell & Moring | 5 | \$828,834,509 | \$165,766,902 |
| 26 | Herbert Smith Freehills | 6 | \$811,366,758 | \$135,227,793 |
| 27 | Baker & McKenzie | 6 | \$779,945,441 | \$129,990,907 |

Table 9.2: Law Firms Ranked by Aggregate Claim Amount

| Rank | Law Firm | Merit Awards | Total Claimed Amounts | Average Claim Size |
|------|---------------------------------|--------------|-----------------------|--------------------|
| 28 | Latham & Watkins | 8 | \$569,431,669 | \$71,178,959 |
| 29 | Pillsbury Winthrop Shaw Pittman | 6 | \$384,283,518 | \$64,047,253 |
| 30 | Thomas & Partners | 5 | \$315,293,354 | \$63,058,671 |

Shearman & Sterling and Baker Botts lead this ranking due to the *Yukos* case, which comprises 97% and 99.9% of their aggregate claim totals, respectively. Similarly, the Freshfields and Curtis total claim amounts are skewed by the *Conoco* case which contributed 60% and 88%, respectively, to each of those firms' aggregate

claim totals. Further, Grischenko & Partners ranking is skewed by *Generation Ukraine*.

Removing the Outlier Cases from the population provides a ranking based on the more typical investor-state cases.

Table 9.3: Law Firms Ranked by Aggregate Claim Amount, excluding Outlier Cases

| Rank | Law Firm | Merit Awards | Total Claimed Amounts | Average Claim Size |
|------|--------------------------------------|--------------|-----------------------|--------------------|
| 1 | Freshfields Bruckhaus Deringer | 31 | \$19,928,609,471 | \$642,858,370 |
| 2 | King & Spalding | 19 | \$11,602,830,609 | \$610,675,295 |
| 3 | Foley Hoag | 11 | \$10,218,622,183 | \$928,965,653 |
| 4 | White & Case | 24 | \$9,024,136,854 | \$376,005,702 |
| 5 | Mannheimer Swartling | 5 | \$5,199,340,122 | \$1,039,868,024 |
| 6 | Curtis, Mallet-Prevost, Colt & Mosle | 9 | \$4,246,809,704 | \$471,867,745 |
| 7 | Dechert | 5 | \$4,226,855,933 | \$845,371,187 |
| 8 | Hughes Hubbard & Reed | 5 | \$4,067,980,415 | \$813,596,083 |
| 9 | Shearman & Sterling | 10 | \$3,791,423,622 | \$379,142,362 |
| 10 | Sidley Austin | 11 | \$3,766,901,511 | \$342,445,592 |
| 11 | Arnold & Porter | 12 | \$3,602,153,373 | \$300,179,448 |
| 12 | Debevoise & Plimpton | 7 | \$3,580,925,701 | \$511,560,814 |

Table 9.3: Law Firms Ranked by Aggregate Claim Amount, excluding Outlier Cases

| Rank | Law Firm | Merit Awards | Total Claimed Amounts | Average Claim Size |
|------|---------------------------------|--------------|-----------------------|--------------------|
| 13 | Covington & Burling | 7 | \$3,277,803,548 | \$468,257,650 |
| 14 | Clifford Chance | 8 | \$3,275,963,199 | \$409,495,400 |
| 15 | Norton Rose Fulbright | 5 | \$3,129,800,662 | \$625,960,132 |
| 16 | Allen & Overy | 11 | \$2,835,251,349 | \$257,750,123 |
| 17 | Linklaters | 6 | \$1,564,718,758 | \$260,786,460 |
| 18 | Derains & Gharavi | 6 | \$1,284,311,860 | \$214,051,977 |
| 19 | Appleton & Associates | 8 | \$1,156,207,142 | \$144,525,893 |
| 20 | Lalive | 5 | \$859,603,492 | \$171,920,698 |
| 21 | Salans | 5 | \$849,825,081 | \$169,965,016 |
| 22 | DLA Piper | 5 | \$842,389,064 | \$168,477,813 |
| 23 | Crowell & Moring | 5 | \$828,834,509 | \$165,766,902 |
| 24 | Herbert Smith Freehills | 6 | \$811,366,758 | \$135,227,793 |
| 25 | Baker & McKenzie | 6 | \$779,945,441 | \$129,990,907 |
| 26 | Latham & Watkins | 8 | \$569,431,669 | \$71,178,959 |
| 27 | Pillsbury Winthrop Shaw Pittman | 6 | \$384,283,518 | \$64,047,253 |
| 28 | Thomas & Partners | 5 | \$315,293,354 | \$63,058,671 |
| 29 | Baker Botts | 5 | \$160,615,439 | \$32,123,088 |
| 30 | Grischenko & Partners | 5 | \$123,700,000 | \$24,740,000 |

9.3 Law Firm Ranking Based on Results

As explained in Section 8 above, we scored the cases on a weighted and unweighted basis based on whether each firm's client won, lost or achieved a draw in the arbitration. In addition, we analyzed overall winning percentage and the weighted points scored per case.

The following table summarizes these results by firm with the table sorted by our overall firm ranking that will be explained in the section following this table. The table reports the scoring of various metrics for the top-20 firms listed above as measured by the most merit awards.

The metrics reported in the table below are: (a) unweighted points (1 point for a win, 0 for a draw and -1 for a loss); (b) weighted points (on the claimant side a win equals 3 points, a draw is 1 point, and a loss is 0; while on the respondent side a win equals 2 points, a draw is 1 point, and loss is -1 point); (c) wins; (d) losses; (e) draws; (f) total merit awards; (g) winning percentage; (h) the weighted points per case; (i) total claimed amounts; and (j) average claim size.

Table 9.4: Overall Law Firm Ranking

| Rank | Law Firm | Unweighted Points | Weighted Points | Wins | Losses | Draws | Merit Awards | Win % | Weighted Points / Case | Total Claimed Amounts | Average Claim Size |
|------|--------------------------------------|-------------------|-----------------|------|--------|-------|--------------|-------|------------------------|-----------------------|--------------------|
| 1 | White & Case | 14 | 40 | 17 | 3 | 4 | 24 | 70.8% | 1.67 | \$9,024,136,854 | \$376,005,702 |
| 2 | Arnold & Porter | 8 | 21 | 9 | 1 | 2 | 12 | 75.0% | 1.75 | \$3,602,153,373 | \$300,179,448 |
| 3 | Freshfields Bruckhaus Deringer | 8 | 43 | 14 | 6 | 11 | 31 | 45.2% | 1.39 | \$50,234,009,471 | \$1,620,451,918 |
| 4 | Herbert Smith Freehills | 4 | 12 | 5 | 1 | 0 | 6 | 83.3% | 2.00 | \$811,366,758 | \$135,227,793 |
| 5 | Foley Hoag | 5 | 15 | 6 | 1 | 4 | 11 | 54.5% | 1.36 | \$10,218,622,183 | \$928,965,653 |
| 6 | Latham & Watkins | 3 | 12 | 5 | 2 | 1 | 8 | 62.5% | 1.50 | \$569,431,669 | \$71,178,959 |
| 7 | Curtis, Mallet-Prevost, Colt & Mosle | 4 | 12 | 5 | 1 | 3 | 9 | 55.6% | 1.33 | \$34,552,209,704 | \$3,839,134,412 |
| 8 | Linklaters | 3 | 11 | 4 | 1 | 1 | 6 | 66.7% | 1.83 | \$1,564,718,758 | \$260,786,460 |
| 9 | Allen & Overy | 0 | 14 | 5 | 5 | 1 | 11 | 45.5% | 1.27 | \$2,835,251,349 | \$257,750,123 |
| 10 | Grischenko & Partners | 4 | 9 | 4 | 0 | 1 | 5 | 80.0% | 1.80 | \$9,569,987,341 | \$1,913,997,468 |

Table 9.4: Overall Law Firm Ranking

| Rank | Law Firm | Unweighted Points | Weighted Points | Wins | Losses | Draws | Merit Awards | Win % | Weighted Points / Case | Total Claimed Amounts | Average Claim Size |
|------|---------------------------------|-------------------|-----------------|------|--------|-------|--------------|-------|------------------------|-----------------------|--------------------|
| 11 | Lalive | 2 | 7 | 3 | 1 | 1 | 5 | 60.0% | 1.40 | \$859,603,492 | \$171,920,698 |
| 12 | Derains & Gharavi | 0 | 6 | 3 | 3 | 0 | 6 | 50.0% | 1.00 | \$1,284,311,860 | \$214,051,977 |
| 13 | Sidley Austin | -1 | 10 | 3 | 4 | 4 | 11 | 27.3% | 0.91 | \$3,766,901,511 | \$342,445,592 |
| 14 | Shearman & Sterling | -2 | 9 | 3 | 5 | 2 | 10 | 30.0% | 0.90 | \$117,965,423,622 | \$11,796,542,362 |
| 15 | Thomas & Partners | 1 | 5 | 2 | 1 | 2 | 5 | 40.0% | 1.00 | \$315,293,354 | \$63,058,671 |
| 16 | Pillsbury Winthrop Shaw Pittman | 0 | 4 | 2 | 2 | 2 | 6 | 33.3% | 0.67 | \$384,283,518 | \$64,047,253 |
| 17 | Norton Rose Fulbright | 0 | 5 | 1 | 1 | 3 | 5 | 20.0% | 1.00 | \$3,129,800,662 | \$625,960,132 |
| 17 | Dechert | 0 | 5 | 1 | 1 | 3 | 5 | 20.0% | 1.00 | \$4,226,855,933 | \$845,371,187 |
| 19 | DLA Piper | -1 | 4 | 2 | 3 | 0 | 5 | 40.0% | 0.80 | \$842,389,064 | \$168,477,813 |
| 20 | King & Spalding | -10 | 11 | 2 | 12 | 5 | 19 | 10.5% | 0.58 | \$11,602,830,609 | \$610,675,295 |
| 21 | Covington & Burling | -2 | 6 | 1 | 3 | 3 | 7 | 14.3% | 0.86 | \$3,277,803,548 | \$468,257,650 |
| 21 | Debevoise & Plimpton | -2 | 6 | 1 | 3 | 3 | 7 | 14.3% | 0.86 | \$3,580,925,701 | \$511,560,814 |
| 23 | Clifford Chance | -3 | 4 | 2 | 5 | 1 | 8 | 25.0% | 0.50 | \$3,275,963,199 | \$409,495,400 |
| 24 | Salans | -3 | 3 | 1 | 4 | 0 | 5 | 20.0% | 0.60 | \$849,825,081 | \$169,965,016 |
| 24 | Hughes Hubbard & Reed | -3 | 3 | 1 | 4 | 0 | 5 | 20.0% | 0.60 | \$4,067,980,415 | \$813,596,083 |
| 26 | Baker Botts | -2 | 2 | 1 | 3 | 1 | 5 | 20.0% | 0.40 | \$114,334,615,439 | \$22,866,923,088 |
| 27 | Appleton & Associates | -6 | 3 | 1 | 7 | 0 | 8 | 12.5% | 0.38 | \$1,156,207,142 | \$144,525,893 |
| 28 | Crowell & Moring | -3 | 2 | 0 | 3 | 2 | 5 | 0.0% | 0.40 | \$828,834,509 | \$165,766,902 |
| 29 | Baker & McKenzie | -4 | 2 | 0 | 4 | 2 | 6 | 0.0% | 0.33 | \$779,945,441 | \$129,990,907 |
| 30 | Mannheimer Swartling | -4 | 1 | 0 | 4 | 1 | 5 | 0.0% | 0.20 | \$5,199,340,122 | \$1,039,868,024 |

The ranking in the table above was performed by using the results to: (1) rank each metric from 1-30; and (2) take the average of the ranking of (a) unweighted points; (b) weighted points; (c) wins; (d) merit awards; (e) winning percentage; and (f) average weighted points per case.

We used this average to rank the top-30 most active investment treaty law firms as shown below with the lower score representing the better ranking.

Table 9.5: Law Firm Average Ranking

| Rank | Law Firm | Average Ranking | Unweighted Points | Weighted Points | Wins | Merit Awards | Win % | Weighted Points / Case |
|------|--------------------------------------|-----------------|-------------------|-----------------|------|--------------|-------|------------------------|
| 1 | White & Case | 2.50 | 1 | 2 | 1 | 2 | 4 | 5 |
| 2 | Arnold & Porter | 3.17 | 2 | 3 | 3 | 4 | 3 | 4 |
| 3 | Freshfields Bruckhaus Deringer | 4.33 | 2 | 1 | 2 | 1 | 12 | 8 |
| 4 | Herbert Smith Freehills | 5.50 | 5 | 6 | 5 | 15 | 1 | 1 |
| 5 | Foley Hoag | 5.83 | 4 | 4 | 4 | 5 | 9 | 9 |
| 6 | Latham & Watkins | 6.83 | 8 | 6 | 5 | 10 | 6 | 6 |
| 7 | Curtis, Mallet-Prevost, Colt & Mosle | 7.17 | 5 | 6 | 5 | 9 | 8 | 10 |
| 8 | Linklaters | 8.00 | 8 | 9 | 9 | 15 | 5 | 2 |
| 9 | Allen & Overy | 8.17 | 12 | 5 | 5 | 5 | 11 | 11 |
| 10 | Grischenko & Partners | 8.50 | 5 | 12 | 9 | 20 | 2 | 3 |
| 11 | Lalive | 11.50 | 10 | 14 | 11 | 20 | 7 | 7 |
| 12 | Derains & Gharavi | 12.50 | 12 | 15 | 11 | 15 | 10 | 12 |
| 13 | Sidley Austin | 12.83 | 17 | 11 | 11 | 5 | 17 | 16 |
| 14 | Shearman & Sterling | 13.83 | 19 | 12 | 11 | 8 | 16 | 17 |
| 15 | Thomas & Partners | 14.83 | 11 | 18 | 15 | 20 | 13 | 12 |
| 16 | Pillsbury Winthrop Shaw Pittman | 16.50 | 12 | 21 | 15 | 15 | 15 | 21 |

Table 9.5: Law Firm Average Ranking

| Rank | Law Firm | Average Ranking | Unweighted Points | Weighted Points | Wins | Merit Awards | Win % | Weighted Points / Case |
|------|-----------------------|-----------------|-------------------|-----------------|------|--------------|-------|------------------------|
| 17 | Norton Rose Fulbright | 16.83 | 12 | 18 | 20 | 20 | 19 | 12 |
| 17 | Dechert | 16.83 | 12 | 18 | 20 | 20 | 19 | 12 |
| 19 | DLA Piper | 17.67 | 17 | 21 | 15 | 20 | 13 | 20 |
| 20 | King & Spalding | 18.00 | 30 | 9 | 15 | 3 | 27 | 24 |
| 21 | Covington & Burling | 18.17 | 19 | 15 | 20 | 13 | 24 | 18 |
| 21 | Debevoise & Plimpton | 18.17 | 19 | 15 | 20 | 13 | 24 | 18 |
| 23 | Clifford Chance | 18.67 | 23 | 21 | 15 | 10 | 18 | 25 |
| 24 | Salans | 21.33 | 23 | 24 | 20 | 20 | 19 | 22 |
| 24 | Hughes Hubbard & Reed | 21.33 | 23 | 24 | 20 | 20 | 19 | 22 |
| 26 | Baker Botts | 21.83 | 19 | 27 | 20 | 20 | 19 | 26 |
| 27 | Appleton & Associates | 22.83 | 29 | 24 | 20 | 10 | 26 | 28 |
| 28 | Crowell & Moring | 25.33 | 23 | 27 | 28 | 20 | 28 | 26 |
| 29 | Baker & McKenzie | 25.67 | 27 | 27 | 28 | 15 | 28 | 29 |
| 30 | Mannheimer Swartling | 27.17 | 27 | 30 | 28 | 20 | 28 | 30 |

9.4 Law Firm Ranking for Claimant and Respondent Representations

When we analyzed our top-20 ranked investor-state law firms broken out by claimant and respondent representations separately, we were able to make useful observations that are not obvious in the aggregated results reported above.

The table below breaks out the claimant and respondent representations by firm sorted by the aggregate ranking reported above.

This table shows the relative split in each firm's representations between claimants and respondents with most of the top ranked firms having cases for both, yet five firms have never represented claimants, while King & Spalding has never represented respondents.

Table 9.6: Law Firm Ranking for Claimant v. Respondent Representations

| Rank | Law Firm | Merit Awards | Claimant Representations | | | | | | Respondent Representations | | | | |
|------|--------------------------------------|--------------|--------------------------|------------------|-------------------|------------------|---------------|------------------|----------------------------|------------------|-----------------|---------------|--|
| | | | Claimant Cases | % Claimant Cases | Claimed Amount | Awarded Amount | Award / Claim | Respondent Cases | % Respondent Cases | Claimed Amount | Awarded Amount | Award / Claim | |
| 1 | White & Case | 24 | 7 | 29.2% | \$5,453,056,111 | \$1,628,969,430 | 29.9% | 17 | 70.8% | \$3,521,130,743 | \$90,232,206 | 2.6% | |
| 2 | Arnold & Porter | 12 | 3 | 25.0% | \$492,144,979 | \$152,138,430 | 30.9% | 9 | 75.0% | \$3,110,008,393 | \$59,292,448 | 1.9% | |
| 3 | Freshfields Bruckhaus Deringer | 31 | 21 | 67.7% | \$43,847,664,486 | \$12,996,178,609 | 29.6% | 10 | 32.3% | \$6,386,344,985 | \$149,770,223 | 2.3% | |
| 4 | Herbert Smith Freehills | 6 | 3 | 50.0% | \$640,466,758 | \$333,849,440 | 52.1% | 3 | 50.0% | \$170,900,000 | \$0 | 0.0% | |
| 5 | Foley Hoag | 11 | 0 | 0.0% | \$0 | \$0 | 0.0% | 11 | 100.0% | \$10,218,622,183 | \$3,261,937,892 | 31.9% | |
| 6 | Latham & Watkins | 8 | 3 | 37.5% | \$137,055,000 | \$39,990,111 | 29.2% | 5 | 62.5% | \$432,376,669 | \$6,008,716 | 1.4% | |
| 7 | Curtis, Mallet-Prevost, Colt & Mosle | 9 | 0 | 0.0% | \$0 | \$0 | 0.0% | 9 | 100.0% | \$34,552,209,704 | \$9,087,599,269 | 26.3% | |
| 8 | Linklaters | 6 | 4 | 66.7% | \$1,169,218,758 | \$516,857,440 | 44.2% | 2 | 33.3% | \$395,500,000 | \$0 | 0.0% | |
| 9 | Allen & Overy | 11 | 8 | 72.7% | \$2,420,139,742 | \$105,821,204 | 4.4% | 3 | 27.3% | \$415,111,608 | \$27,471,802 | 6.6% | |
| 10 | Grischenko & Partners | 5 | 0 | 0.0% | \$0 | \$0 | 0.0% | 5 | 100.0% | \$9,569,987,341 | \$9,050,782 | 0.1% | |
| 11 | Lalive | 5 | 1 | 20.0% | \$22,267,000 | \$0 | 0.0% | 4 | 80.0% | \$837,336,492 | \$28,053,427 | 3.4% | |
| 12 | Derains & Gharavi | 6 | 3 | 50.0% | \$1,237,240,064 | \$21,800,216 | 1.8% | 3 | 50.0% | \$47,071,796 | \$1,728,194 | 3.7% | |
| 13 | Sidley Austin | 11 | 6 | 54.5% | \$1,066,759,321 | \$154,859,360 | 14.5% | 5 | 45.5% | \$2,700,142,190 | \$48,839,817 | 1.8% | |
| 14 | Shearman & Sterling | 10 | 7 | 70.0% | \$115,371,999,940 | \$50,318,149,261 | 44.0% | 3 | 30.0% | \$2,293,278,831 | \$1,243,461,982 | 54.2% | |
| 15 | Thomas & Partners | 5 | 0 | 0.0% | \$0 | \$0 | 0.0% | 5 | 100.0% | \$315,293,354 | \$121,781,216 | 38.6% | |
| 16 | Pillsbury Winthrop Shaw Pittman | 6 | 0 | 0.0% | \$0 | \$0 | 0.0% | 6 | 100.0% | \$384,283,518 | \$161,866,760 | 42.1% | |
| 17 | Norton Rose Fulbright | 5 | 4 | 80.0% | \$70,321,462 | \$24,479,312 | 34.8% | 2 | 40.0% | \$2,894,289,200 | \$497,685,101 | 17.2% | |

Table 9.6: Law Firm Ranking for Claimant v. Respondent Representations

| Rank | Law Firm | Merit Awards | Claimant Representations | | | | | Respondent Representations | | | | |
|----------------|-----------------|--------------|--------------------------|------------------|------------------------|------------------------|---------------|----------------------------|--------------------|------------------------|----------------------|---------------|
| | | | Claimant Cases | % Claimant Cases | Claimed Amount | Awarded Amount | Award / Claim | Respondent Cases | % Respondent Cases | Claimed Amount | Awarded Amount | Award / Claim |
| 17 | Dechert | 5 | 1 | 20.0% | \$105,000,000 | \$0 | 0.0% | 2 | 40.0% | \$4,121,855,933 | \$1,489,204,849 | 36.1% |
| 19 | DLA Piper | 5 | 3 | 60.0% | \$519,500,000 | \$86,794,276 | 16.7% | 2 | 40.0% | \$322,889,064 | \$2,782,794 | 0.9% |
| 20 | King & Spalding | 19 | 19 | 100.0% | \$11,602,830,609 | \$2,311,835,756 | 19.9% | 0 | 0.0% | \$0 | \$0 | |
| Average | | 10.00 | 4.65 | 40.2% | \$9,207,783,211 | \$3,434,586,142 | 23.4% | 5.30 | 59% | \$4,134,431,600 | \$814,338,374 | 14.3% |
| Median | | | | | | | | | | | | 3.4% |

9.4.1 Law Firm Ranking for Claimant Representations

When we look at the law firm results for our top ranked group based just on the claimant representations, we can analyze the relative amount of the awards compared to the claimed amounts for each firm. The table below ranks the firms based on the single metric

of the percentage of the award earned compared to the claim with the highest percentage ranked first and lowest percentage ranked last. We ranked the 15 firms among the top-20 ranked firms which represented claimants.

Table 9.7: Law Firm Ranking by Claimant Representations

| Rank | Law Firm | Merit Awards | Claimant Cases | % Claimant Cases | Claimed Amount | Awarded Amount | Award / Claim |
|------|-------------------------|--------------|----------------|------------------|-------------------|------------------|---------------|
| 1 | Herbert Smith Freehills | 6 | 3 | 50.0% | \$640,466,758 | \$333,849,440 | 52.1% |
| 2 | Linklaters | 6 | 4 | 66.7% | \$1,169,218,758 | \$516,857,440 | 44.2% |
| 3 | Shearman & Sterling | 10 | 7 | 70.0% | \$115,371,999,940 | \$50,318,149,261 | 43.6% |
| 4 | Norton Rose Fulbright | 5 | 4 | 80.0% | \$235,511,462 | \$91,356,086 | 38.8% |
| 5 | Arnold & Porter | 12 | 3 | 25.0% | \$492,144,979 | \$152,138,430 | 30.9% |

Table 9.7: Law Firm Ranking by Claimant Representations

| Rank | Law Firm | Merit Awards | Claimant Cases | % Claimant Cases | Claimed Amount | Awarded Amount | Award / Claim |
|------|--------------------------------|--------------|----------------|------------------|-------------------------|------------------------|---------------|
| 6 | White & Case | 24 | 7 | 29.2% | \$5,453,056,111 | \$1,628,969,430 | 29.9% |
| 7 | Freshfields Bruckhaus Deringer | 31 | 21 | 67.7% | \$43,847,664,486 | \$12,996,178,609 | 29.6% |
| 8 | Latham & Watkins | 8 | 3 | 37.5% | \$137,055,000 | \$39,990,111 | 29.2% |
| 9 | King & Spalding | 19 | 19 | 100.0% | \$11,602,830,609 | \$2,311,835,756 | 19.9% |
| 10 | DLA Piper | 5 | 3 | 60.0% | \$519,500,000 | \$86,794,276 | 16.7% |
| 11 | Sidley Austin | 11 | 6 | 54.5% | \$1,066,759,321 | \$154,859,360 | 14.5% |
| 12 | Allen & Overy | 11 | 8 | 72.7% | \$2,420,139,742 | \$105,821,204 | 4.4% |
| 13 | Derains & Gharavi | 6 | 3 | 50.0% | \$1,237,240,064 | \$21,800,216 | 1.8% |
| 14 | Lalive | 5 | 1 | 20.0% | \$22,267,000 | \$0 | 0.0% |
| 15 | Dechert | 5 | 1 | 20.0% | \$105,000,000 | \$0 | 0.0% |
| | Average | 11 | 6 | 53.6% | \$12,288,056,949 | \$4,583,906,641 | 23.7% |
| | Median | | | | | | 29.2% |

The table shows that Herbert Smith Freehills leads with 52% of the claimed amount awarded to their clients followed by Linklaters and Shearman & Sterling, both with approximately 44% of award to claim value.

We recognize that by taking the top-20 overall firms and splitting them between claimant and respondent representations resulted in the leading two firms on claimant side having only had three and four representations. The table below ranks just those top-20 firms who had six or more claimant representations.

Table 9.8: Law Firms with 6 or More Claimant Representations

| Rank | Law Firm | Merit Awards | Claimant Cases | % Claimant Cases | Claimed Amount | Awarded Amount | Award / Claim |
|------|--------------------------------|--------------|----------------|------------------|-------------------------|-------------------------|---------------|
| 1 | Shearman & Sterling | 10 | 7 | 70.0% | \$115,371,999,940 | \$50,318,149,261 | 43.6% |
| 2 | White & Case | 24 | 7 | 29.2% | \$5,453,056,111 | \$1,628,969,430 | 29.9% |
| 3 | Freshfields Bruckhaus Deringer | 31 | 21 | 67.7% | \$43,847,664,486 | \$12,996,178,609 | 29.6% |
| 4 | King & Spalding | 19 | 19 | 100.0% | \$11,602,830,609 | \$2,311,835,756 | 19.9% |
| 5 | Sidley Austin | 11 | 6 | 54.5% | \$1,066,759,321 | \$154,859,360 | 14.5% |
| 6 | Allen & Overy | 11 | 8 | 72.7% | \$2,420,139,742 | \$105,821,204 | 4.4% |
| | Average | 18 | 11 | 65.7% | \$29,960,408,368 | \$11,252,635,603 | 23.7% |
| | Median | | | | | | 24.8% |

As the table above shows, this ranking results in just six firms being ranked rather than 15 in the prior table due to the cut-off of more than five cases. Shearman & Sterling leads this ranking followed by White & Case and Freshfields.

As these firms are most active on claimant side, we analyzed which states they have gone up against. The results are shown in the table below.

Table 9.9: Claimant Law Firms Against States

| Firm | State | Cases Against | Win | Draw | Loss |
|--------------------------------|----------------|---------------|-----|------|------|
| Freshfields Bruckhaus Deringer | Venezuela | 10 | 2 | 6 | 2 |
| | Argentina | 5 | 3 | 2 | |
| | Bolivia | 1 | | 1 | |
| | Bulgaria | 1 | | | 1 |
| | Czech Republic | 1 | | 1 | |

Table 9.9: Claimant Law Firms Against States

| Firm | State | Cases Against | Win | Draw | Loss |
|-----------------|---------------------------|---------------|-----|------|------|
| | Ecuador | 1 | | 1 | |
| | Former Yugoslav Macedonia | 1 | | | 1 |
| | Hungary | 1 | | | 1 |
| King & Spalding | Argentina | 7 | 1 | 3 | 3 |
| | Ecuador | 3 | | 1 | 2 |
| | Bolivia | 1 | | | 1 |
| | Czech Republic | 1 | | | 1 |
| | Egypt | 1 | | 1 | |
| | Kazakhstan | 1 | | | 1 |
| | Libya | 1 | | | 1 |
| | Peru | 1 | | | 1 |
| | Romania | 1 | | | 1 |
| | Spain | 1 | 1 | | |
| | Turkmenistan | 1 | | | 1 |
| Allen & Overy | Hungary | 2 | | | 2 |
| | Belize | 1 | 1 | | |
| | Kazakhstan | 1 | | | 1 |
| | Philippines | 1 | | | 1 |
| | Seychelles | 1 | 1 | | |
| | Sri Lanka | 1 | 1 | | |
| | Tanzania | 1 | | | 1 |

Table 9.9: Claimant Law Firms Against States

| Firm | State | Cases Against | Win | Draw | Loss |
|---------------------|------------------------|---------------|-----|------|------|
| Shearman & Sterling | Argentina | 1 | 1 | | |
| | Egypt | 1 | | | 1 |
| | Hungary | 1 | 1 | | |
| | Peru | 1 | | | 1 |
| | Poland | 1 | | | 1 |
| | Romania | 1 | | | 1 |
| | The Russian Federation | 1 | | 1 | |
| White & Case | Croatia | 1 | | | 1 |
| | Paraguay | 1 | 1 | | |
| | Poland | 1 | | | 1 |
| | Slovak Republic | 1 | 1 | | |
| | Turkey | 1 | | | 1 |
| | United States | 1 | | | 1 |
| | Venezuela | 1 | | 1 | |
| Sidley Austin | Mexico | 2 | | 1 | 1 |
| | Argentina | 1 | | 1 | |
| | Pakistan | 1 | | | 1 |
| | Poland | 1 | | | 1 |
| | Uruguay | 1 | | | 1 |

9.4.2 Law Firm Ranking for Respondent Representations

The table below similarly reports the most active firms in investor-state cases based just on their respondent representations. This table, like the claimant table above, ranks the firms on an award

over claim basis and includes only those 19 firms which have represented respondents. On the respondent side, the lower ratio is better.

Table 9.10: Law Firm Ranking by Respondent Representations

| Rank | Law Firm | Merit Awards | Respondent Cases | % Respondent Cases | Claimed Amount | Awarded Amount | Award / Claim |
|------|--------------------------------------|--------------|------------------|--------------------|------------------|-----------------|---------------|
| 1 | Herbert Smith Freehills | 6 | 3 | 50.0% | \$170,900,000 | \$0 | 0.0% |
| 2 | Linklaters | 6 | 2 | 33.3% | \$395,500,000 | \$0 | 0.0% |
| 3 | Grischenko & Partners | 5 | 5 | 100.0% | \$9,569,987,341 | \$9,050,782 | 0.1% |
| 4 | DLA Piper | 5 | 2 | 40.0% | \$322,889,064 | \$2,782,794 | 0.9% |
| 5 | Latham & Watkins | 8 | 5 | 62.5% | \$432,376,669 | \$6,008,716 | 1.4% |
| 6 | Sidley Austin | 11 | 5 | 45.5% | \$2,700,142,190 | \$48,839,817 | 1.8% |
| 7 | Arnold & Porter | 12 | 9 | 75.0% | \$3,110,008,393 | \$59,292,448 | 1.9% |
| 8 | Freshfields Bruckhaus Deringer | 31 | 10 | 32.3% | \$6,386,344,985 | \$149,770,223 | 2.3% |
| 9 | White & Case | 24 | 17 | 70.8% | \$3,521,130,743 | \$90,232,206 | 2.6% |
| 10 | Lalive | 5 | 4 | 80.0% | \$837,336,492 | \$28,053,427 | 3.4% |
| 11 | Derains & Gharavi | 6 | 3 | 50.0% | \$47,071,796 | \$1,728,194 | 3.7% |
| 12 | Allen & Overy | 11 | 3 | 27.3% | \$415,111,608 | \$27,471,802 | 6.6% |
| 13 | Norton Rose Fulbright | 5 | 1 | 20.0% | \$2,894,289,200 | \$497,685,101 | 17.2% |
| 14 | Curtis, Mallet-Prevost, Colt & Mosle | 9 | 9 | 100.0% | \$34,552,209,704 | \$9,087,599,269 | 26.3% |
| 15 | Foley Hoag | 11 | 11 | 100.0% | \$10,218,622,183 | \$3,261,937,892 | 31.9% |
| 16 | Dechert | 5 | 4 | 80.0% | \$4,121,855,933 | \$1,489,204,849 | 36.1% |

Table 9.10: Law Firm Ranking by Respondent Representations

| Rank | Law Firm | Merit Awards | Respondent Cases | % Respondent Cases | Claimed Amount | Awarded Amount | Award / Claim |
|------|---------------------------------|--------------|------------------|--------------------|------------------------|----------------------|---------------|
| 17 | Thomas & Partners | 5 | 5 | 100.0% | \$315,293,354 | \$121,781,216 | 38.6% |
| 18 | Pillsbury Winthrop Shaw Pittman | 6 | 6 | 100.0% | \$384,283,518 | \$161,866,760 | 42.1% |
| 19 | Shearman & Sterling | 10 | 3 | 30.0% | \$2,293,278,831 | \$1,243,461,982 | 54.2% |
| | Average | 9.53 | 5.63 | 63% | \$4,352,033,263 | \$857,198,288 | 14% |
| | Median | | | | | | 3.4% |

Once again Herbert Smith Freehills leads this ranking with zero dollars paid by their respondent clients on three cases. Linklaters clients also enjoyed not being ordered to pay damages on two cases, placing them second in this ranking.

Again, by taking the top-20 most active ranked overall firms and splitting them between claimant and respondent representation resulted in the lead two firms on respondent side with only three and two representations. The table below ranks just those firms who had six or more respondent representations.

Table 9.11:
Law Firms with 6 or More Respondent Representations

| Rank | Law Firm | Merit Awards | Respondent Cases | % Respondent Cases | Claimed Amount | Awarded Amount | Award / Claim |
|------|--------------------------------------|--------------|------------------|--------------------|------------------------|------------------------|---------------|
| 1 | Arnold & Porter | 12 | 9 | 75.0% | \$3,110,008,393 | \$59,292,448 | 1.9% |
| 2 | Freshfields Bruckhaus Deringer | 31 | 10 | 32.3% | \$6,386,344,985 | \$149,770,223 | 2.3% |
| 3 | White & Case | 24 | 17 | 70.8% | \$3,521,130,743 | \$90,232,206 | 2.6% |
| 4 | Curtis, Mallet-Prevost, Colt & Mosle | 9 | 9 | 100.0% | \$34,552,209,704 | \$9,087,599,269 | 26.3% |
| 5 | Foley Hoag | 11 | 11 | 100.0% | \$10,218,622,183 | \$3,261,937,892 | 31.9% |
| 6 | Pillsbury Winthrop Shaw Pittman | 6 | 6 | 100.0% | \$384,283,518 | \$161,866,760 | 42.1% |
| | Average | 15.50 | 10.33 | 79.7% | \$9,695,433,254 | \$2,135,116,466 | 17.9% |
| | Median | | | | | | 14.4% |

Arnold & Porter leads this ranking. We note the tight clustering of Arnold & Porter, Freshfields and White & Case. In aggregate,

across 36 cases between these three firms, their client respondent states averaged paying less than 2.5% of the claimed amount through either wins on liability or low awards relative to the claimed amounts. The following table lists the States represented by these six respondent law firms.

Table 9.12: Respondent Law Firms and State Representations

| Firm | State | Count of Representations | Win | Draw | Loss |
|--------------|-------------|--------------------------|-----|------|------|
| White & Case | Ukraine | 3 | 3 | | |
| | Peru | 3 | 3 | | |
| | Romania | 2 | 2 | | |
| | Bulgaria | 2 | 2 | | |
| | Costa Rica | 1 | | 1 | |
| | Hungary | 1 | 1 | | |
| | Chile | 1 | | 1 | |
| | Indonesia | 1 | 1 | | |
| | Philippines | 1 | 1 | | |
| | Thailand | 1 | | 1 | |
| | Uzbekistan | 1 | 1 | | |
| | Foley Hoag | Venezuela | 7 | 2 | 4 |
| Ecuador | | 2 | 2 | | |
| India | | 1 | 1 | | |
| Uruguay | | 1 | 1 | | |

Table 9.12: Respondent Law Firms and State Representations

| Firm | State | Count of Representations | Win | Draw | Loss |
|--------------------------------------|--------------------|--------------------------|-----|------|------|
| Freshfields Bruckhaus Deringer | Egypt | 2 | 2 | | |
| | Romania | 1 | 1 | | |
| | Turkey | 1 | 1 | | |
| | Albania | 1 | 1 | | |
| | Guatemala | 1 | 1 | | |
| | Tanzania | 1 | 1 | | |
| | Estonia | 1 | | | 1 |
| | Kenya | 1 | 1 | | |
| | Lithuania | 1 | 1 | | |
| Arnold & Porter | Venezuela | 2 | 2 | | |
| | Hungary | 2 | 2 | | |
| | Costa Rica | 1 | 1 | | |
| | Chile | 1 | 1 | | |
| | Guatemala | 1 | | 1 | |
| | Dominican Republic | 1 | 1 | | |
| | Panama | 1 | 1 | | |
| Curtis, Mallet-Prevost, Colt & Mosle | Venezuela | 5 | 2 | 3 | |
| | Turkmenistan | 2 | 2 | | |
| | Indonesia | 1 | 1 | | |
| | Tanzania | 1 | | | 1 |
| Pillsbury Winthrop Shaw Pittman | Mexico | 6 | 2 | 2 | 2 |

10 Damages Expert Analysis

In the first edition of the study, we ranked the experts individually and by firm. Due to the movement of the most active experts between firms, we dropped the firm ranking in this edition of the study.

10.1 Damages Expert Ranking by Number of Merit Awards

There are nine damages experts that have been involved in five or more cases that have proceeded to merit awards. The table below lists these experts and the parties they were instructed by.

The table on the right shows that Mr. Kaczmarek has been reported as expert in more awards than any law firm or arbitrator in the study, and Mr. Abdala has been reported in more awards than any arbitrator and only Freshfields is listed in more merit awards among the law firms. The results also indicate that each expert tends to be hired more often by either claimants or respondents, except Mr. Kaczmarek whose reported awards are split close to 50/50.

Table 10.1: Damages Experts Ranked by Number of Cases²³

| Rank | Expert | Total Cases | Claimant Cases | Respondent Cases |
|------|------------------------|-------------|----------------|------------------|
| 1 | Brent Kaczmarek | 39 | 19 | 20 |
| 2 | Manuel Abdala | 27 | 24 | 3 |
| 3 | Pablo Spiller | 14 | 13 | 1 |
| 4 | Tim Hart ²⁴ | 12 | 1 | 11 |
| 5 | Howard Rosen | 10 | 10 | 0 |
| 6 | Carlos Lapuerta | 7 | 5 | 2 |
| 7 | Philip Haberman | 6 | 4 | 2 |
| 8 | Fabian Bello | 6 | 0 | 6 |
| 9 | Daniel Flores | 6 | 0 | 6 |

²³ The experts listed are currently at the following firms: (1) Mr. Kaczmarek – IAV Advisors; (2) Dr. Abdala and Prof. Spiller – Compass Lexecon; (3) Mr. Hart – Credibility International; (4) Mr. Rosen – Secretariat International; (5) Mr. Lapuerta – The Brattle Group; (6) Mr. Haberman – Blackrock; (7) Mr. Bello – Firm Unknown; and (8) Daniel Flores – Quadrant Economics.

²⁴ As a reminder to the reader, Mr. Hart is the CEO of Credibility and is an author of this study.

10.2 Damages Expert Unweighted Score Ranking

For purposes of ranking the experts, we applied the same rating scales as used on the law firms for both the unweighted and weighted methods. We scored a win for the respondent's damages expert in cases where no liability was found and conversely a loss for claimant's expert on that same case. We did this because in an investment treaty case, the expert is typically involved in the analysis and description of the investment from a financial standpoint.

The table below ranks the experts using the unweighted method (one point for a win, zero points for a draw, and negative one point for a loss) as previously described.

In addition, the table displays the: (1) winning percentage, which is the number of wins divided by the number of cases; (2) losing percentage, which is the number of losses divided by the number of cases (not displayed is the draw percentage, which is 100% less the winning and losing percentages); and (3) the percentage of cases in which the listed expert was closer than the opposing expert to the amount of the award in the cases with liability found in which the award specified both the claimed amount (normally in all awards) and the amount put forward by respondent's expert (many times lacking, particularly in older awards).

Table 10.2: Damages Experts Ranked by Unweighted Scoring

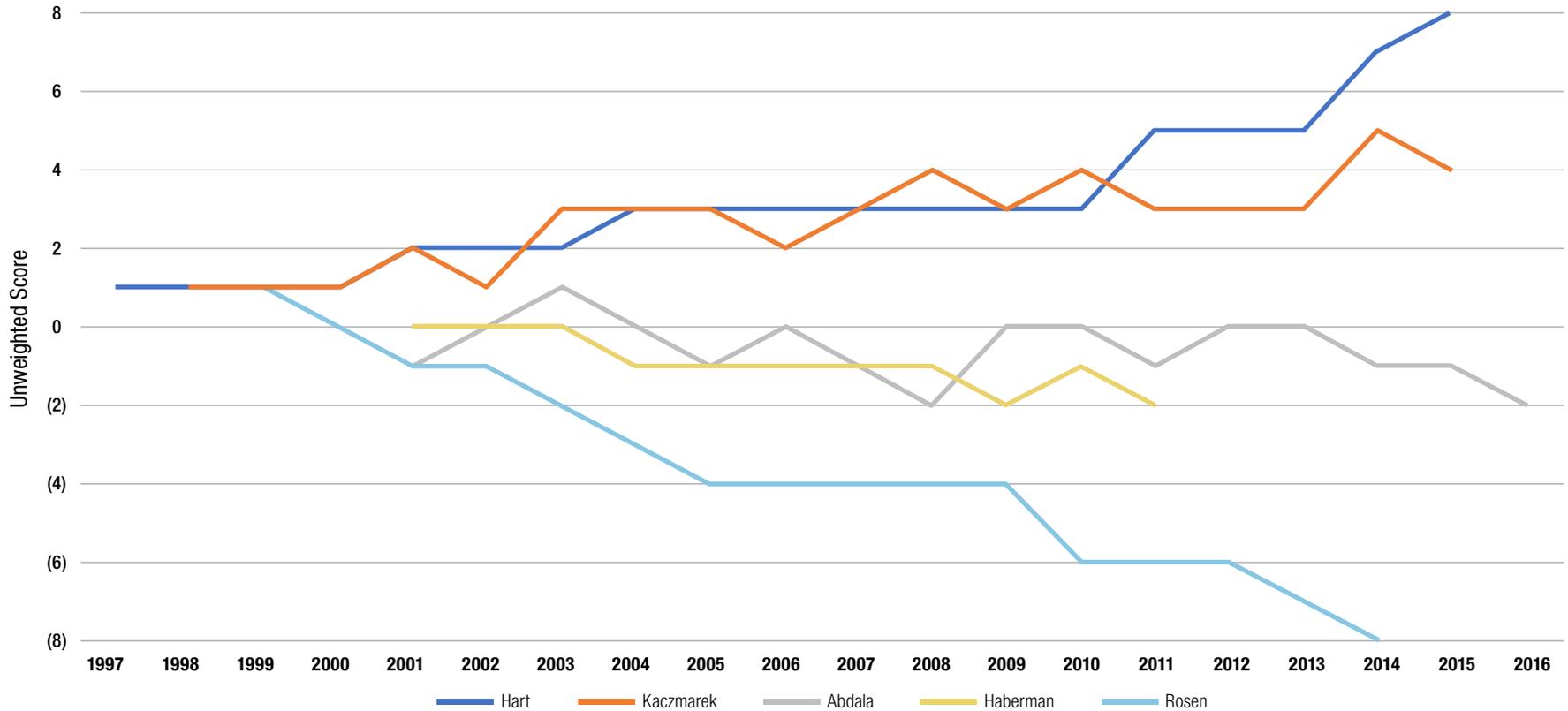
| Rank | Expert | Total Cases | Unweighted Score | Winning % | Losing % | Expert Closer to Award |
|------|-----------------|-------------|------------------|-----------|----------|------------------------|
| 1 | Tim Hart | 12 | 8 | 75% | 8% | 100% |
| 2 | Brent Kaczmarek | 39 | 4 | 44% | 33% | 25% |
| 3 | Daniel Flores | 6 | 1 | 33% | 17% | 67% |
| 4 | Pablo Spiller | 14 | 0 | 21% | 21% | 29% |
| 5 | Fabian Bello | 6 | 0 | 33% | 33% | 17% |
| 6 | Carlos Lapuerta | 7 | -1 | 29% | 43% | 50% |
| 7 | Manuel Abdala | 27 | -2 | 26% | 33% | 10% |
| 8 | Philip Haberman | 6 | -2 | 17% | 50% | 33% |
| 9 | Howard Rosen | 10 | -8 | 10% | 90% | 17% |

The table above shows that the unweighted score is heavily influenced by a positive spread between the winning percentage and losing percentage on cases as a win scored a point and a loss causes a point to be deducted. Mr. Hart, Mr. Kaczmarek and Dr. Flores achieved positive spreads in those percentages and thus have positive unweighted scores. Prof. Spiller and Mr. Bello had equal winning and losing percentages which caused them to score zero points. The rest of the listed experts lost more cases than they won, which resulted in negative scores.

Due to the inherent offset of wins and losses in this scoring method, the scores are not skewed by the number of cases as the ranking above is the same if it were performed on an unweighted score per case basis.

The figure below tracks the experts’ unweighted cumulative scores over time based on year of case registration. The chart includes the two highest performing experts and the three lowest performing by this measure. To reduce clutter on the chart, the middle four experts have been excluded as their scoring total over time was never higher than one or lower than negative one.

Figure 10.1: Damages Expert Unweighted Scoring Trends



For the awards with a finding of liability that listed both the claimant's damages claim and the respondent's counter damages figure, we determined which expert's damages figure was closer to the award. The table below reports the number of cases that fit both criteria: (1) a finding of liability; and (2) the award disclosed both the claimant and respondent damages figures.

Then, expressed as a percentage of the cases fitting the criteria, we report how often each expert's damages opinion was closer to the award than the opposing expert.

The table shows that the majority of the most active experts did not provide damages figures to the tribunals that were closer to the award than the opposing expert. As we noted in the first edition of our study, many of the older awards did not report the respondent figures which made this comparison difficult. For most cases that we either did not have the award or the award was redacted, we were prevented from making this measurement.

10.3 Damages Expert Weighted Score Ranking

Table 10.4: Damages Experts Ranked by Weighted Scoring

| Rank | Expert | Total Cases | Claimant Cases | Respondent Cases | Winning % | Losing % | Weighted Score |
|------|-----------------|-------------|----------------|------------------|-----------|----------|----------------|
| 1 | Brent Kaczmarek | 39 | 19 | 20 | 43% | 33% | 41 |
| 2 | Manuel Abdala | 27 | 24 | 3 | 26% | 33% | 29 |
| 3 | Tim Hart | 12 | 1 | 11 | 75% | 8% | 20 |
| 4 | Pablo Spiller | 14 | 13 | 1 | 21% | 21% | 17 |
| 5 | Daniel Flores | 6 | 0 | 6 | 33% | 17% | 7 |

Table 10.3: Damages Expert Closer to Award

| Rank | Expert | Cases with Liability & Both Experts Figures | Percentage of Cases Expert Closer to Award |
|------|-----------------|---|--|
| 1 | Tim Hart | 7 | 100% |
| 2 | Daniel Flores | 3 | 67% |
| 3 | Carlos Lapuerta | 4 | 50% |
| 4 | Philip Haberman | 3 | 33% |
| 5 | Pablo Spiller | 7 | 29% |
| 6 | Brent Kaczmarek | 20 | 25% |
| 7 | Howard Rosen | 6 | 17% |
| 8 | Fabian Bello | 6 | 17% |
| 9 | Manuel Abdala | 10 | 10% |

Weighting the scores accounts for the relative difficulty of achieving a win when instructed by the claimant as opposed to the respondent. Using the weighted method to score the experts, results in a shuffling of the experts as shown in the table below.

Table 10.4: Damages Experts Ranked by Weighted Scoring

| Rank | Expert | Total Cases | Claimant Cases | Respondent Cases | Winning % | Losing % | Weighted Score |
|------|-----------------|-------------|----------------|------------------|-----------|----------|----------------|
| 6 | Carlos Lapuerta | 7 | 5 | 2 | 29% | 43% | 6 |
| 7 | Fabian Bello | 6 | 0 | 6 | 33% | 33% | 6 |
| 8 | Philip Haberman | 6 | 4 | 2 | 17% | 50% | 4 |
| 9 | Howard Rosen | 10 | 10 | 0 | 10% | 90% | 3 |

Mr. Kaczmarek leads this ranking on the strength of his 39 cases with Dr. Abdala in second.

When we take the table above and divide the weighted score by the total cases and rank the experts by the weighted score per case the ranking in following table results.

Table 10.5:
Damages Experts Ranked by Weighted Scoring per Case

| Rank | Expert | Total Cases | Claimant Cases | Respondent Cases | Winning % | Losing % | Weighted Score | Weighted Score / Case |
|------|-----------------|-------------|----------------|------------------|-----------|----------|----------------|-----------------------|
| 1 | Tim Hart | 12 | 1 | 11 | 75% | 8% | 20 | 1.67 |
| 2 | Pablo Spiller | 14 | 13 | 1 | 21% | 21% | 17 | 1.21 |
| 3 | Daniel Flores | 6 | 0 | 6 | 33% | 17% | 7 | 1.17 |
| 4 | Manuel Abdala | 27 | 24 | 3 | 26% | 33% | 29 | 1.07 |
| 5 | Brent Kaczmarek | 39 | 19 | 20 | 43% | 33% | 41 | 1.05 |
| 6 | Fabian Bello | 6 | 0 | 6 | 33% | 33% | 6 | 1.00 |
| 7 | Carlos Lapuerta | 7 | 5 | 2 | 29% | 43% | 6 | 0.86 |
| 8 | Philip Haberman | 6 | 4 | 2 | 17% | 50% | 4 | 0.67 |
| 9 | Howard Rosen | 10 | 10 | 0 | 10% | 90% | 3 | 0.30 |

The results in the table above indicate that the effectiveness of the expert per case is influenced most by achieving a lower losing percentage.

10.3.1 Damages Expert Ranking for Claimant Instructions

We then analyzed the cases in which the expert was instructed by the claimant.

Of the nine experts who were involved in five or more merit awards, seven of them have been instructed by claimants.

Table 10.6: Claimant Expert Ranking

The table below ranks the experts based on the total claim amount.

| Rank | Expert | Claimant Cases | Claim Amount | Award Amount | Award as a % of Claim |
|------|-----------------|----------------|-------------------|------------------|-----------------------|
| 1 | Brent Kaczmarek | 19 | \$122,204,283,115 | \$52,417,223,598 | 42.9% |
| 2 | Manuel Abdala | 24 | \$43,548,730,764 | \$12,280,394,170 | 28.2% |
| 3 | Pablo Spiller | 13 | \$37,816,175,568 | \$11,229,194,353 | 29.7% |
| 4 | Howard Rosen | 10 | \$6,496,508,822 | \$537,830,339 | 8.3% |
| 5 | Philip Haberman | 4 | \$1,346,888,623 | \$30,208,841 | 2.2% |
| 6 | Tim Hart | 1 | \$1,132,000,000 | \$867,800,000 | 76.7% |
| 7 | Carlos Lapuerta | 5 | \$699,859,072 | \$103,085,428 | 14.7% |

Mr. Kaczmarek leads this ranking followed by Dr. Abdala with each of their aggregate claim amounts greatly influenced by their two respective outlying cases, Yukos and Conoco.

We also note that Prof. Spiller's ranking is driven in large part by Dr. Abdala's track record, as in 11 of Prof. Spiller's 13 cases he was co-expert with Dr. Abdala.

Table 10.7: Claimant Expert Ranking, excluding Yukos and Conoco cases and Mr. Hart

When *Yukos*, *Conoco* and Mr. Hart (who only had one claimant case) are removed, the following ranking by claim amount results.

| Rank | Expert | Claimant Cases | Claim Amount Excluding Outliers | Award Amount Excluding Outliers | Award as a % of Claim |
|------|-----------------|----------------|---------------------------------|---------------------------------|-----------------------|
| 1 | Manuel Abdala | 23 | \$13,243,330,764 | \$3,547,348,015 | 26.8% |
| 2 | Brent Kaczmarek | 19 | \$8,030,283,115 | \$2,396,355,800 | 29.8% |
| 3 | Pablo Spiller | 12 | \$7,510,775,568 | \$2,496,148,198 | 33.2% |

Table 10.7: Claimant Expert Ranking, excluding *Yukos* and *Conoco* cases and Mr. Hart

| Rank | Expert | Claimant Cases | Claim Amount Excluding Outliers | Award Amount Excluding Outliers | Award as a % of Claim |
|------|-----------------|----------------|---------------------------------|---------------------------------|-----------------------|
| 4 | Howard Rosen | 10 | \$6,496,508,822 | \$537,830,339 | 8.3% |
| 5 | Philip Haberman | 4 | \$1,346,888,623 | \$30,208,841 | 2.2% |
| 6 | Carlos Lapuerta | 5 | \$699,859,072 | \$103,085,428 | 14.7% |

With the outlier cases included, the three relatively successful experts of the most frequent claimant experts achieved average awards ranging from 28% to 43% of the claim amount. The same group achieved awards ranging from 27% to 33% of the claimed amount with the outliers removed.

The bottom three most experienced claimant experts fared much worse with awards ranging from 2% to 14% of the claim.

The following table lists the States that the most active claimant experts have been against.

Table 10.8: Claimant Experts Against States

| Expert | State | Cases Against | Win | Draw | Loss |
|---------------|------------------------|---------------|-----|------|------|
| Manuel Abdala | Argentina | 8 | 2 | 4 | 2 |
| | Venezuela | 6 | 1 | 4 | 1 |
| | Hungary | 3 | 1 | | 2 |
| | Costa Rica | 1 | | | 1 |
| | Mexico | 1 | | | 1 |
| | Dominican Republic | 1 | | | 1 |
| | The Russian Federation | 1 | | | 1 |
| | Bolivia | 1 | | 1 | |
| | Egypt | 1 | | 1 | |
| | Ecuador | 1 | | 1 | |

Table 10.8: Claimant Experts Against States

| Expert | State | Cases Against | Win | Draw | Loss |
|------------------------|------------------------|---------------|-----|------|------|
| Brent Kaczmarek | Venezuela | 5 | | 4 | 1 |
| | Ecuador | 3 | | 1 | 2 |
| | Mexico | 2 | 1 | | 1 |
| | Georgia | 1 | | 1 | |
| | Poland | 1 | | | 1 |
| | Philippines | 1 | | | 1 |
| | Uruguay | 1 | | | 1 |
| | The Russian Federation | 1 | | 1 | |
| | Croatia | 1 | | | 1 |
| | Peru | 1 | | 1 | |
| | Canada | 1 | | | 1 |
| | Pakistan | 1 | | | 1 |
| | Pablo Spiller | Argentina | 6 | 2 | 3 |
| Venezuela | | 4 | | 4 | |
| The Russian Federation | | 1 | | | 1 |
| Croatia | | 1 | | | 1 |
| Hungary | | 1 | 1 | | |

Table 10.8: Claimant Experts Against States

| Expert | State | Cases Against | Win | Draw | Loss |
|--------------|------------|---------------|-----|------|------|
| Howard Rosen | Canada | 2 | 1 | | 1 |
| | Romania | 2 | | | 2 |
| | Kazakhstan | 2 | | | 2 |
| | Venezuela | 1 | | | 1 |
| | Bolivia | 1 | | | 1 |
| | Argentina | 1 | | | 1 |
| | Peru | 1 | | | 1 |
| | | | | | |

10.3.2 Damages Expert Ranking for Respondent Instructions

We then analyzed the cases in which the expert was instructed by the respondent.

All but one of the nine experts who were involved in five or more merit awards have been instructed by at least one respondent.

Table 10.9: Respondent Expert Ranking

The table below ranks the experts based on the total claim amount.

| Rank | Expert | Respondent Cases | Claim Amount | Award Amount | Award as a % of Claim |
|------|-----------------|------------------|------------------|-----------------|-----------------------|
| 1 | Daniel Flores | 6 | \$32,300,172,640 | \$8,908,220,609 | 27.6% |
| 2 | Tim Hart | 11 | \$6,570,175,889 | \$1,439,400,253 | 21.9% |
| 3 | Brent Kaczmarek | 20 | \$5,540,783,777 | \$615,040,372 | 11.1% |
| 4 | Manuel Abdala | 3 | \$5,136,157,411 | \$5,000,000 | 0.1% |
| 5 | Carlos Lapuerta | 2 | \$2,376,805,084 | \$9,061,479 | 0.4% |
| 6 | Fabian Bello | 6 | \$1,693,436,775 | \$505,477,207 | 29.8% |
| 7 | Philip Haberman | 2 | \$150,023,269 | \$33,860,740 | 22.6% |
| 8 | Pablo Spiller | 1 | 63,778,212 | 13,518,759 | 21.2% |

The following table lists the States that the most active respondent experts have been instructed by.

Table 10.10: Respondent Expert State Instructions

| Expert | State | Count of Instructions | Win | Draw | Loss | |
|-----------------|--------------------|-----------------------|-----|------|------|---|
| Brent Kaczmarek | Romania | 2 | 2 | | | |
| | Peru | 2 | 2 | | | |
| | Bulgaria | 2 | 2 | | | |
| | Hungary | 2 | 2 | | | |
| | Oman | 1 | 1 | | | |
| | United States | 1 | 1 | | | |
| | Costa Rica | 1 | | 1 | | |
| | Czech Republic | 1 | | | 1 | |
| | Montenegro | 1 | 1 | | | |
| | Dominican Republic | 1 | 1 | | | |
| | Chile | 1 | 1 | | | |
| | Canada | 1 | 1 | | | |
| | Thailand | 1 | | | 1 | |
| | Kazakhstan | 1 | | | | 1 |
| | Cyprus | 1 | 1 | | | |
| | Lithuania | 1 | 1 | | | |

Table 10.10: Respondent Expert State Instructions

| Expert | State | Count of Instructions | Win | Draw | Loss |
|---------------|------------|-----------------------|-----|------|------|
| Tim Hart | Venezuela | 4 | 1 | 2 | 1 |
| | Costa Rica | 2 | 2 | | |
| | Romania | 1 | 1 | | |
| | Croatia | 1 | 1 | | |
| | Uzbekistan | 1 | 1 | | |
| | India | 1 | 1 | | |
| | Moldova | 1 | 1 | | |
| Daniel Flores | Venezuela | 4 | 2 | 2 | |
| | Bolivia | 1 | | 1 | |
| | Spain | 1 | | | 1 |
| Fabian Bello | Argentina | 4 | 1 | 1 | 2 |
| | Venezuela | 2 | 1 | 1 | |

11 Authors' Notes

We are hopeful that this study is useful to the international arbitration investor-state community including claimants, respondent states, arbitrators, counsel, and experts. The quantitative analysis of the awards provides a look into the history and helps show some trends in the areas of damages, interest, and costs.

We welcome feedback on the contents of the study and suggestions for information that might be helpful in future editions.

We also welcome feedback on any particular case highlighted or providing us with any awards we did not locate and therefore omitted.



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Exhibit 1: Cases Included in the Second Edition of the Study

| Case Count | Year Registered | Award Year | Case Name | Claim Amount | Award Amount |
|------------|-----------------|------------|---|-----------------|---------------|
| 1 | 1981 | 1990 | Amco Asia Corporation, Pan American Development Limited, PT Amco Indonesia v. Indonesia | \$15,000,000 | \$2,696,330 |
| 2 | 1982 | 1988 | Société Ouest Africaine des Bétons Industriels v. Senegal | \$8,332,861 | \$1,582,709 |
| 3 | 1984 | 1992 | Southern Pacific Properties (Middle East) Limited v. Egypt | \$133,805,000 | \$22,568,000 |
| 4 | 1987 | 1990 | Asiana Agircultural products Limited v. Sri Lanka | \$8,067,368 | \$460,000 |
| 5 | 1993 | 1997 | American Manufacturing and Trading, Inc v. Zaire | \$21,574,405 | \$9,000,000 |
| 6 | 1994 | 1995 | Saar Papier Vertriebs GmbH v. Poland | \$1,626,246 | \$1,626,246 |
| 7 | 1994 | 1999 | Tradex Hellas S.A. v. Albania | \$3,107,074 | \$0 |
| 8 | 1996 | 1998 | Fedax N.V. v. Venezuela | \$598,950 | \$760,195 |
| 9 | 1996 | 1998 | Frank Sedelmayer v. The Russian Federation | \$7,917,574 | \$2,350,000 |
| 10 | 1996 | 2000 | Compañí del Desarrollo de Santa Elena S.A. v. Costa Rica | \$41,200,000 | \$16,000,000 |
| 11 | 1997 | 2000 | Emilio Agustín Maffezini v. Spain | \$155,489 | \$155,489 |
| 12 | 1997 | 2000 | Metalclad Corporation v. Mexico | \$90,000,000 | \$16,685,000 |
| 13 | 1997 | 2004 | CSOB v. Slovak Republic | \$1,132,000,000 | \$867,800,000 |
| 14 | 1997 | 2007 | Compañía de Aguas del Aconquija S.A. and Vivendi Universal S.A. v. Argentina | \$316,923,000 | \$105,000,000 |
| 15 | 1998 | 2000 | Wena Hotels Limited v. Egypt | \$65,999,940 | \$8,061,897 |
| 16 | 1998 | 2001 | Eudora A. Olguín v. Paraguay | \$601,764 | \$0 |
| 17 | 1998 | 2002 | S.D. Myers Inc. v. Canada | \$70,921,421 | \$3,867,789 |

Exhibit 1: Cases Included in the Second Edition of the Study

| Case Count | Year Registered | Award Year | Case Name | Claim Amount | Award Amount |
|------------|-----------------|------------|--|-----------------|---------------|
| 18 | 1998 | 2016 | Victor Pey Casado and President Allende Foundation v. Chile | \$338,300,000 | \$0 |
| 19 | 1999 | 2000 | SwemBalt AB v. Latvia | \$2,806,258 | \$2,506,258 |
| 20 | 1999 | 2001 | Alex Genin, Eastern Credit Limited, Inc. and A.S. Baltoil v. Estonia | \$1,639,344 | \$0 |
| 21 | 1999 | 2001 | Ronald S. Lauder v. Czech Republic | \$0 | \$0 |
| 22 | 1999 | 2002 | Link Trading Joint Stock Company v. Moldova | \$3,458,813 | \$0 |
| 23 | 1999 | 2002 | Marvin Roy Feldman Karpa v. Mexico | \$46,591,466 | \$928,360 |
| 24 | 1999 | 2002 | Middle East Cement Shipping and Handling Co. S.A. v. Egypt | \$42,240,000 | \$2,190,430 |
| 25 | 1999 | 2002 | Mondev International Ltd. v. United States | \$50,000,000 | \$0 |
| 26 | 1999 | 2002 | Pope & Talbot Inc. v. Canada | \$482,622 | \$407,646 |
| 27 | 1999 | 2004 | Patrick Mitchell v. Congo | \$750,000 | \$750,000 |
| 28 | 2000 | 2003 | ADF Group Inc v. United States | \$90,000,000 | \$0 |
| 29 | 2000 | 2003 | Autopista Concesionada deVenezuela, C.A. v. Venezuela | \$161,566,629 | \$12,089,929 |
| 30 | 2000 | 2003 | CME Czech Republic BV v. Czech Republic | \$495,200,000 | \$269,814,000 |
| 31 | 2000 | 2003 | Consortium R.F.C.C v. Morocco | \$89,118,885 | \$0 |
| 32 | 2000 | 2003 | Generation Ukraine Inc. v. Ukraine | \$9,446,287,341 | \$0 |
| 33 | 2000 | 2003 | Técnicas Medioambientales Tecmed, S.A. v. Mexico | \$52,000,000 | \$5,533,017 |
| 34 | 2000 | 2004 | Waste Management, Inc. v. Mexico | \$36,630,000 | \$0 |
| 35 | 2000 | 2006 | World Duty Free Company Limited v. Kenya | \$500,000,000 | \$0 |
| 36 | 2000 | 2007 | United Parcels Service of America Inc. v. Canada | \$160,000,000 | \$0 |
| 37 | 2001 | 2003 | AIG Capital Partners, Inc. and CJSC Tema Real Estate Company v. Kazakhstan | \$13,500,000 | \$3,560,000 |
| 38 | 2001 | 2003 | Nykomb Synergetics Technology Holding AB (Sweden) v. Latvia | \$13,158,460 | \$2,966,256 |

Exhibit 1: Cases Included in the Second Edition of the Study

| Case Count | Year Registered | Award Year | Case Name | Claim Amount | Award Amount |
|------------|-----------------|------------|---|-----------------|---------------|
| 39 | 2001 | 2004 | CCL v. Kazakhstan | \$243,365,137 | \$0 |
| 40 | 2001 | 2004 | MTD Equity Sdn. Bhd. and MTD Chile S.A. v. Chile | \$20,000,000 | \$5,871,322 |
| 41 | 2001 | 2004 | Repsol YPF Ecuador S.A. v. Empresa Estatal Petróleos del Ecuador (Petroecuador) | \$13,684,279 | \$13,684,279 |
| 42 | 2001 | 2005 | CMS Gas Transmission Company v. Argentina | \$261,100,000 | \$133,200,000 |
| 43 | 2001 | 2005 | Noble Ventures, Inc v. Romania | \$143,531,000 | \$0 |
| 44 | 2001 | 2006 | Azurix Corp. v. Argentina | \$686,400,000 | \$165,240,753 |
| 45 | 2001 | 2006 | F-W Oil Interests, Inc v. Trinidad & Tobago | \$0 | \$0 |
| 46 | 2001 | 2007 | Enron Creditors Recovery Corporation (formerly Enron Corporation) and Ponderosa Assets, L.P. v. Argentina | \$582,000,000 | \$106,200,000 |
| 47 | 2001 | 2012 | Antoine Goetz and others v. Burundi | \$1,200,000 | \$1,222,042 |
| 48 | 2002 | 2003 | CDC Group plc v. Seychelles | \$4,291,025 | \$4,291,025 |
| 49 | 2002 | 2003 | William Nagel v. Czech Republic | \$27,000,000 | \$0 |
| 50 | 2002 | 2004 | GAMI Investments, Inc. v. Mexico | \$27,800,000 | \$0 |
| 51 | 2002 | 2004 | Occidental Exploration and Production Company v. Ecuador | \$201,500,000 | \$71,533,649 |
| 52 | 2002 | 2006 | Champion Trading Company and Ameritrade International, Inc. v. Egypt | \$365,171,121 | \$0 |
| 53 | 2002 | 2006 | Fireman's Fund Insurance Company v. Mexico | \$50,000,000 | \$0 |
| 54 | 2002 | 2006 | International Thunderbird Gaming Corporation v. Mexico | \$100,000,000 | \$0 |
| 55 | 2002 | 2006 | Salini Costruttori S.p.A. Italastrade S.p.A. v. Jordan | \$28,000,000 | \$0 |
| 56 | 2002 | 2007 | LG&E Energy Corp., LG&E Capital Corp. and LG&E International Inc. v. Argentina | \$259,500,000 | \$57,400,000 |
| 57 | 2002 | 2007 | PSEG Global Inc. and Konya Ilgin Elektrik Üretim ve Ticaret Limited Sirketi v. Turkey | \$2,237,420,000 | \$9,061,479 |
| 58 | 2002 | 2007 | Sempra Energy International v. Argentina | \$209,380,000 | \$128,250,462 |
| 59 | 2002 | 2007 | Siemens A.G. v. Argentina | \$462,477,071 | \$237,838,439 |

Exhibit 1: Cases Included in the Second Edition of the Study

| Case Count | Year Registered | Award Year | Case Name | Claim Amount | Award Amount |
|------------|-----------------|------------|--|---------------|---------------|
| 60 | 2002 | 2007 | Tokios Tokel s v. Ukraine | \$65,000,000 | \$0 |
| 61 | 2003 | 2005 | Petrobart Ltd. (Gibraltar) v. Kyrgyz Republic | \$4,084,651 | \$1,130,859 |
| 62 | 2003 | 2006 | ADC Affiliate Limited and ADC & ADMC Management Limited v. Hungary | \$84,073,034 | \$76,200,000 |
| 63 | 2003 | 2006 | EnCana Corporation v. Ecuador | \$80,000,000 | \$0 |
| 64 | 2003 | 2007 | BG Group plc v. Argentina | \$238,100,000 | \$185,285,486 |
| 65 | 2003 | 2007 | M.C.I. Power Group, L.C. and New Turbine, Inc v. Ecuador | \$25,000,000 | \$0 |
| 66 | 2003 | 2008 | Continental Casualty Company v. Argentina | \$114,030,000 | \$2,800,000 |
| 67 | 2003 | 2008 | Duke Energy International Peru Investments No. 1 Ltd. v. Peru | \$37,533,190 | \$18,440,746 |
| 68 | 2003 | 2008 | Metalpar S.A. and Buen Aire S.A. v. Argentina | \$17,938,099 | \$0 |
| 69 | 2003 | 2008 | Plama Consortium Limited v. Bulgaria | \$146,120,152 | \$0 |
| 70 | 2003 | 2009 | Bayindir Insaat Turizm Ticaret Ve Sanayi A.S. v. Pakistan | \$494,600,000 | \$0 |
| 71 | 2003 | 2009 | Glamis Gold Ltd. v. United States | \$50,000,000 | \$0 |
| 72 | 2003 | 2011 | El Paso Energy International Company v. Argentina | \$228,200,000 | \$43,030,000 |
| 73 | 2003 | 2012 | EDF International S.A., SAUR International S.A. and León Participaciones Argentinas S.A. v. Argentina | \$270,988,417 | \$136,138,430 |
| 74 | 2003 | 2015 | Suez, Sociedad General de Aguas de Barcelona S.A. and Interagua Servicios Integrales de Agua S.A. v. Argentina | \$257,700,000 | \$225,700,000 |
| 75 | 2003 | 2015 | Suez, Sociedad General de Aguas de Barcelona S.A. and Vivendi Universal S.A. v. Argentina | \$834,100,000 | \$383,581,241 |
| 76 | 2004 | 2005 | Iurii Bogdanov, Agurdino-Invest, Agurdino-Chimia v. Moldova | \$217,357 | \$243,214 |
| 77 | 2004 | 2007 | Archer Daniels Midland Company and Tate & Lyle Ingredients Americas, INC v. Mexico | \$100,000,000 | \$33,510,091 |
| 78 | 2004 | 2007 | Eastern Sugar BV v. Czech Republic | \$127,788,300 | \$33,860,740 |
| 79 | 2004 | 2007 | OKO Pankki Oyj; VTB Bank AG; and Sampo Bank PLC v. Estonia | \$30,000,000 | \$25,078,871 |

Exhibit 1: Cases Included in the Second Edition of the Study

| Case Count | Year Registered | Award Year | Case Name | Claim Amount | Award Amount |
|------------|-----------------|------------|---|-----------------|---------------|
| 80 | 2004 | 2008 | Cargill, Incorporated v. Poland | \$82,969,321 | \$16,349,269 |
| 81 | 2004 | 2008 | Duke Energy Electroquil Partners and Electroquil S.A. v. Ecuador | \$24,720,904 | \$5,578,566 |
| 82 | 2004 | 2008 | Jan de Nul N.V. and Dredging International N.V. v. Egypt | \$81,390,370 | \$0 |
| 83 | 2004 | 2008 | Nedjelko Ulemek v. Croatia | \$2,622,819 | \$0 |
| 84 | 2004 | 2009 | Corn Products International, Inc. v. Mexico | \$325,000,000 | \$58,000,000 |
| 85 | 2004 | 2010 | Talsud, S.A., SLP S.A., Gemplus S.A. and Gemplus Industrial S.A. v. Mexico | \$27,050,325 | \$10,941,885 |
| 86 | 2004 | 2011 | Rupert Joseph Binder v. Czech Republic | \$233,000,000 | \$0 |
| 87 | 2004 | 2013 | Total S.A. v. Argentina | \$557,200,000 | \$269,928,000 |
| 88 | 2004 | 2013 | Vannessa Ventures Ltd. v. Venezuela | \$1,045,000,000 | \$0 |
| 89 | 2004 | 2014 | SAUR International v. Argentina | \$40,255,000 | \$39,990,111 |
| 90 | 2004 | 2016 | Mobil Exploration and Development Argentina Inc. Suc. Argentina and Mobil Argentina S.A. v. Argentina | \$513,500,000 | \$196,241,306 |
| 91 | 2005 | 2007 | Parkerings-Copagniet AS v. Republic of Lithuania v. Lithuania | \$31,059,072 | \$0 |
| 92 | 2005 | 2007 | Pren Nreka v. Czech Republic | \$1,500,000 | \$1,500,000 |
| 93 | 2005 | 2008 | Amto (Latvia) v. Ukraine | \$23,800,000 | \$0 |
| 94 | 2005 | 2008 | Biwater Gauff Limited v. Tanzania | \$19,608,990 | \$0 |
| 95 | 2005 | 2008 | Desert Line Project LLC v. Yemen | \$246,993,064 | \$20,468,314 |
| 96 | 2005 | 2008 | Helnan International Hotels A/S v. Egypt | \$65,285,439 | \$0 |
| 97 | 2005 | 2008 | LESI, S.p.A. and Astaldi, S.p.A. v. Algeria | \$0 | \$0 |
| 98 | 2005 | 2008 | Rumeli Telekom A.S. and Telsim Mobil Telekomunikasyon Hizmetleri A.S. v. Kazakhstan | \$227,000,000 | \$125,000,000 |
| 99 | 2005 | 2009 | Bernardus Henricus Funnekotter and others v. Zimbabwe | \$13,916,553 | \$10,701,035 |
| 100 | 2005 | 2009 | Cargill, Incorporated v. Mexico | \$123,813,029 | \$77,329,240 |

Exhibit 1: Cases Included in the Second Edition of the Study

| Case Count | Year Registered | Award Year | Case Name | Claim Amount | Award Amount |
|------------|-----------------|------------|--|-------------------|------------------|
| 101 | 2005 | 2009 | EDF (Services) Limited v. Romania | \$132,576,000 | \$0 |
| 102 | 2005 | 2009 | Empresa Eléctrica del Ecuador, Inc. (EMELEC) v. Ecuador | \$326,000,000 | \$0 |
| 103 | 2005 | 2009 | Saipem S.p.A. v. Bangladesh | \$6,304,369 | \$6,304,369 |
| 104 | 2005 | 2009 | Waguih Elie George Siag and Clorinda Vecchi v. Egypt | \$212,261,000 | \$74,550,795 |
| 105 | 2005 | 2009 | Walter Bau v. Thailand | \$124,120,360 | \$30,647,132 |
| 106 | 2005 | 2010 | European Media Ventures v. Czech Republic | \$45,000,000 | \$0 |
| 107 | 2005 | 2010 | Ron Fuchs and Ioannis Kardassopoulos v. Georgia | \$30,200,000 | \$15,100,000 |
| 108 | 2005 | 2010 | RosInvestCo UK Ltd v. The Russian Federation | \$276,100,000 | \$3,500,000 |
| 109 | 2005 | 2013 | Ioan Micula, Viorel Micula, S.C. European Food S.A., S.C. Starmill S.R.L. and S.C. Multipack S.R.L. v. Romania | \$832,900,000 | \$116,629,455 |
| 110 | 2005 | 2014 | Hulley Enterprises Limited (Cyprus); Yukos Universal Limited (Isle of Man); Veteran Petroleum Limited (Cyprus) v. The Russian Federation | \$114,174,000,000 | \$50,020,867,798 |
| 111 | 2005 | 2015 | Hrvatska Elektroprivreda d.d. v. Slovenia | \$94,566,857 | \$21,685,495 |
| 112 | 2006 | 2008 | Aguaytia Energy, LLC v. Peru | \$91,100,000 | \$0 |
| 113 | 2006 | 2009 | Cementownia "Nowa Huta" S.A. v. Turkey | \$4,648,157,411 | \$0 |
| 114 | 2006 | 2009 | Nordzucker AG v. Poland | \$229,135,960 | \$0 |
| 115 | 2006 | 2009 | Sistem Muhendislik Insaat Sanayi ve Ticaret A.S. v. Kyrgyzstan | \$20,710,423 | \$8,500,000 |
| 116 | 2006 | 2010 | Merrill & Ring Forestry L.P. v. Canada | \$51,405,780 | \$0 |
| 117 | 2006 | 2010 | Nations Energy, Inc. and others v. Panama | \$62,163,552 | \$0 |
| 118 | 2006 | 2010 | Togo Electricité and GDF-Suez Energie Services v. Togo | \$452,018,369 | \$78,244,173 |
| 119 | 2006 | 2011 | Chevron Corporation (USA) and Texaco Petroleum Company (USA) v. Ecuador | \$649,786,333 | \$77,739,694 |
| 120 | 2006 | 2011 | Joseph C. Lemire v. Ukraine | \$46,651,000 | \$8,717,850 |

Exhibit 1: Cases Included in the Second Edition of the Study

| Case Count | Year Registered | Award Year | Case Name | Claim Amount | Award Amount |
|------------|-----------------|------------|---|-----------------|-----------------|
| 121 | 2006 | 2011 | Spyridon Roussalis v. Romania | \$123,229,119 | \$0 |
| 122 | 2006 | 2012 | Jan Oostergetel, Theodora Laurentius v. Slovakia | \$63,014,011 | \$0 |
| 123 | 2006 | 2012 | Occidental Petroleum Corporation and Occidental Exploration and Production Company v. Ecuador | \$2,359,500,000 | \$1,061,775,000 |
| 124 | 2006 | 2013 | The Rompetrol Group N.V. v. Romania | \$139,385,084 | \$0 |
| 125 | 2006 | 2016 | Vestey Group Ltd v. Venezuela | \$157,347,680 | \$98,145,325 |
| 126 | 2007 | 2009 | Invesmart BV v. Czech Republic | \$350,500,000 | \$0 |
| 127 | 2007 | 2009 | Panttechniki S.A. Contractors & Engineers v. Albania | \$1,821,796 | \$0 |
| 128 | 2007 | 2010 | AES Summit Generation Limited and AES-Tisza Erömu Dft. v. Hungary | \$230,000,000 | \$0 |
| 129 | 2007 | 2010 | Alpha Projektholding GmbH v. Ukraine | \$11,400,000 | \$5,250,782 |
| 130 | 2007 | 2010 | Astaldi S.p.A v. Honduras | \$5,569,148 | \$5,488,696 |
| 131 | 2007 | 2010 | Gustav F W Hamester GmbH & Co KG v. Ghana | \$156,567,285 | \$0 |
| 132 | 2007 | 2010 | Liman Caspian Oil BV and NCL Dutch Investment BV v. Kazakhstan | \$200,000,000 | \$0 |
| 133 | 2007 | 2011 | Impregilo S.p.A. v. Argentina | \$119,362,503 | \$21,294,000 |
| 134 | 2007 | 2011 | Tza Yap Shum v. Peru | \$20,544,751 | \$786,306 |
| 135 | 2007 | 2012 | Quasar de Valores SICAV S.A., Orgor de Valores SICAV S.A., GBI 9000 SICAV S.A. and ALOS 34 S.L. v. The Russian Federation | \$2,600,000 | \$2,026,480 |
| 136 | 2007 | 2012 | Railroad Development Corporation v. Guatemala | \$63,778,212 | \$13,518,759 |
| 137 | 2007 | 2012 | SGS Société Générale de Surveillance S.A. v. Paraguay | \$61,525,951 | \$39,025,951 |
| 138 | 2007 | 2012 | Toto Costruzioni Generali S.p.A. v. Lebanon | \$21,768,467 | \$0 |
| 139 | 2007 | 2015 | Electrabel S.A. v. Hungary | \$679,700,000 | \$0 |
| 140 | 2007 | 2015 | Mobil Investments Canada Inc. and Murphy Oil Corporation v. Canada | \$59,100,000 | \$13,832,088 |

Exhibit 1: Cases Included in the Second Edition of the Study

| Case Count | Year Registered | Award Year | Case Name | Claim Amount | Award Amount |
|------------|-----------------|------------|--|------------------|-----------------|
| 141 | 2007 | 2016 | Urbaser S.A. and Consorcio de Aguas Bilbao Bizkaia, Bilbao Biskaia Ur Partzuergoa v. Argentina | \$211,208,658 | \$0 |
| 142 | 2007 | 2019 | ConocoPhillips Petrozuata B.V., ConocoPhillips Hamaca B.V. and ConocoPhillips Gulf of Paria B.V. v. Venezuela | \$30,305,400,000 | \$8,733,046,155 |
| 143 | 2008 | 2010 | Chemtura Corporation v. Canada | \$78,593,520 | \$0 |
| 144 | 2008 | 2010 | Mohammad Ammar Al-Bahloul (Austria) v. Tajikistan | \$468,470,000 | \$0 |
| 145 | 2008 | 2011 | GEA Group Aktiengesellschaft v. Ukraine | \$30,832,017 | \$0 |
| 146 | 2008 | 2011 | Malicorp Limited v. Egypt | \$0 | \$0 |
| 147 | 2008 | 2011 | Mercuria Energy Group Limited v. Poland | \$400,000,000 | \$0 |
| 148 | 2008 | 2012 | Achmea B.V. v. Slovak Republic | \$70,107,375 | \$28,603,809 |
| 149 | 2008 | 2012 | Bosh International, Inc. and B&P, LTD Foreign Investments Enterprise v. Ukraine | \$10,000,000 | \$0 |
| 150 | 2008 | 2012 | Concesionaria Dominicana de Autopistas y Carreteras, S.A. v. Dominican Republic | \$209,500,000 | \$33,683,760 |
| 151 | 2008 | 2012 | Inmaris Perestroika Sailing Maritime Services GmbH, Windjammer Beteiligungsgesellschaft mbH & Co. KG, Dr. Sven-Holger Undritz as insolvency administrator of Inmaris Windjammer Sailing GmbH i.L., Dr. Sven-Holger Undritz as insolvency administrator of Inmaris Windjammer Chartering GmbH i.L. v. Ukraine | \$23,500,000 | \$3,800,000 |
| 152 | 2008 | 2017 | Burlington Resources, Inc. v. Ecuador | \$1,318,755,933 | \$379,802,267 |
| 153 | 2009 | 2010 | Global Trading Resource Corp. and Globex International, Inc. v. Ukraine | \$35,000,000 | \$0 |
| 154 | 2009 | 2012 | Deutsche Bank AGD v. Sri Lanka | \$60,368,993 | \$60,368,993 |
| 155 | 2009 | 2012 | Elsamex, S.A. v. Honduras | \$11,546,089 | \$8,075,995 |
| 156 | 2009 | 2012 | Iberdola Energia S.A. v. Guatemala | \$188,000,000 | \$0 |
| 157 | 2009 | 2012 | InterTrade Holding GmbH v. Czech Republic | \$109,719,302 | \$0 |
| 158 | 2009 | 2012 | Les Laboratoires Servier, S.A.S. Biofarma, S.A.S. Arts et Techniques du Progres S.A.S. v. Poland | \$300,000,000 | \$5,000,000 |
| 159 | 2009 | 2012 | Phillips Petroleum Company Venezuela Ltd. and ConocoPhillips Petrozuata B.V. v. Petróleos de Venezuela, S.A. | \$165,190,000 | \$66,876,774 |

Exhibit 1: Cases Included in the Second Edition of the Study

| Case Count | Year Registered | Award Year | Case Name | Claim Amount | Award Amount |
|------------|-----------------|------------|---|-----------------|---------------|
| 160 | 2009 | 2012 | Reinhard Hans Unglaube and Marion Unglaube v. Costa Rica | \$8,800,000 | \$3,100,000 |
| 161 | 2009 | 2012 | Swisslion DOO Skopje v. Former Yugoslav Macedonia | \$25,823,748 | \$430,150 |
| 162 | 2009 | 2012 | Ulysseas, Inc. v. Ecuador | \$56,100,000 | \$0 |
| 163 | 2009 | 2013 | Abengoa, S.A. y COFIDES, S.A. v. Mexico | \$68,990,165 | \$40,085,544 |
| 164 | 2009 | 2014 | EDF International S.A. v. Hungary | \$132,600,000 | \$132,600,000 |
| 165 | 2009 | 2014 | Gold Reserve Inc. v. Venezuela | \$1,735,124,200 | \$713,032,000 |
| 166 | 2009 | 2017 | Teinver S.A., Transportes de Cercanías S.A. and Autobuses Urbanos del Sur S.A. v. Argentina | \$1,590,000,000 | \$320,760,000 |
| 167 | 2010 | 2011 | White Industries Australia Ltd. v. India | \$4,054,133 | \$4,054,133 |
| 168 | 2010 | 2013 | AES Corporation and Tau Power B.V. v. Kazakhstan | \$1,290,000,000 | \$0 |
| 169 | 2010 | 2013 | Anatolie and Gabriel Stati, Ascom Group S.A., Terra Raf Trans Trading Ltd v. Kazakhstan | \$2,894,289,200 | \$497,685,101 |
| 170 | 2010 | 2013 | Convial Callao S.A. y CCI – Compañía de Concesiones de Infraestructura S.A. v. Peru | \$105,000,000 | \$0 |
| 171 | 2010 | 2013 | Luigiterzo Bosca v. Lithuania | \$266,580,415 | \$0 |
| 172 | 2010 | 2014 | Antoine Abou Lahoud and Leila Bounafeh-Abou Lahoud v. Congo | \$22,250,000 | \$1,728,194 |
| 173 | 2010 | 2014 | British Caribbean Bank Ltd. (Turks & Caicos) v. Belize | \$45,170,734 | \$25,161,186 |
| 174 | 2010 | 2014 | David Minnotte and Robert Lewis v. Poland | \$35,000,000 | \$0 |
| 175 | 2010 | 2014 | Flughafen Zürich A.G. and Gestión e Ingeniería IDC S.A. v. Venezuela | \$44,848,358 | \$19,428,261 |
| 176 | 2010 | 2014 | Guaracachi America, Inc. and Rurelec plc v. Bolivia | \$136,400,000 | \$28,927,582 |
| 177 | 2010 | 2014 | Renée Rose Levy de Levi v. Peru | \$6,989,000 | \$0 |
| 178 | 2010 | 2015 | Bernhard von Pezold and others v. Zimbabwe | \$53,817,762 | \$64,896,339 |
| 179 | 2010 | 2015 | Hassan Awdi, Enterprise Business Consultants, Inc. and Alfa El Corporation v. Romania | \$178,251,408 | \$8,605,932 |
| 180 | 2010 | 2015 | Tidewater Investment SRL and Tidewater Caribe, C.A. v. Venezuela | \$234,000,000 | \$36,397,000 |

Exhibit 1: Cases Included in the Second Edition of the Study

| Case Count | Year Registered | Award Year | Case Name | Claim Amount | Award Amount |
|------------|-----------------|------------|---|-----------------|-----------------|
| 181 | 2010 | 2016 | İçkale İnşaat Limited Şirketi v. Turkmenistan | \$566,705,446 | \$0 |
| 182 | 2010 | 2016 | Peter A. Allard v. Barbados | \$22,234,969 | \$0 |
| 183 | 2010 | 2016 | Philip Morris Brand Sàrl (Switzerland), Philip Morris Products S.A. (Switzerland) and Abal Hermanos S.A. (Uruguay) v. Uruguay | \$22,267,000 | \$0 |
| 184 | 2010 | 2016 | Standard Chartered Bank (Hong Kong) Limited v. Tanzania Electric Supply Company Limited | \$214,600,000 | \$148,400,000 |
| 185 | 2011 | 2013 | Caravelí Cotaruse Transmisora de Energía S.A.C. v. Peru | \$26,389,851 | \$0 |
| 186 | 2011 | 2013 | Franck Charles Arif v. Moldova | \$49,889,064 | \$2,782,794 |
| 187 | 2011 | 2013 | Mohamed Abdulmoshen Al-Kharafi & Sons Co. v. Libya and Others | \$1,144,930,000 | \$935,000,000 |
| 188 | 2011 | 2014 | Hesham Talaat M. Al-Warraq v. Indonesia | \$19,671,060 | \$0 |
| 189 | 2011 | 2014 | Tulip Real Estate and Development Netherlands B.V. v. Turkey | \$450,000,000 | \$0 |
| 190 | 2011 | 2014 | Valeri Belokon v. Kyrgyz Republic | \$33,000,000 | \$15,020,000 |
| 191 | 2011 | 2014 | Vigotop Limited v. Hungary | \$394,282,380 | \$0 |
| 192 | 2011 | 2015 | Adel A Hamadi Al Tamimi v. Oman | \$273,000,000 | \$0 |
| 193 | 2011 | 2015 | Mamidoil Jetoil Greek Petroleum Products Societe Anonyme S.A. v. Albania | \$23,000,000 | \$0 |
| 194 | 2011 | 2015 | OI European Group B.V v. Venezuela | \$929,544,714 | \$372,461,982 |
| 195 | 2011 | 2015 | Oxus Gold plc v. Uzbekistan | \$1,140,700,000 | \$10,299,572 |
| 196 | 2011 | 2015 | Vincent J. Ryan, Schooner Capital LLC, and Atlantic Investment Partners LLC v. Poland | \$99,218,920 | \$0 |
| 197 | 2011 | 2016 | Agility for Public Warehousing Company K.S.C. v. Pakistan | \$650,000,000 | \$0 |
| 198 | 2011 | 2016 | Copper Mesa Mining Corporation v. Ecuador | \$69,700,000 | \$19,447,495 |
| 199 | 2011 | 2016 | Crystallex International Corporation v. Venezuela | \$3,160,000,000 | \$1,202,000,000 |
| 200 | 2011 | 2016 | Garanti Koza v. Turkmenistan | \$46,100,000 | \$2,529,900 |
| 201 | 2011 | 2016 | Mesa Power Group LLC v. Canada | \$590,836,319 | \$0 |

Exhibit 1: Cases Included in the Second Edition of the Study

| Case Count | Year Registered | Award Year | Case Name | Claim Amount | Award Amount |
|------------|-----------------|------------|---|-----------------|---------------|
| 202 | 2011 | 2016 | Tenaris S.A. and Talta - Trading e Marketing Sociedade Unipessoal Lda. v. Venezuela | \$299,300,000 | \$87,300,000 |
| 203 | 2011 | 2017 | Baggerwerken Decloedt En Zoon NV v. Philippines | \$91,000,000 | \$16,000,000 |
| 204 | 2011 | 2017 | Murphy Exploration & Production Company – International v. Ecuador | \$472,990,000 | \$77,071,309 |
| 205 | 2012 | 2013 | Yuri Bogdanov, Yulia Bogdanova v. Moldova | \$1,683,608 | \$0 |
| 206 | 2012 | 2016 | Charanne B.V. (the Netherlands) and Construction Investments S.A.R.L. (Luxembourg) v. Spain | \$20,700,000 | \$0 |
| 207 | 2012 | 2016 | Churchill Mining Plc and Planet Mining Pty Ltd, formerly ARB/12/14 v. Indonesia | \$1,315,000,000 | \$0 |
| 208 | 2012 | 2016 | MNSS B.V. and Recuerdo Credito Acciaio N.V. v. Montenegro | \$114,500,000 | \$0 |
| 209 | 2012 | 2016 | Rusoro Mining Ltd. v. Venezuela | \$2,318,898,825 | \$967,777,002 |
| 210 | 2012 | 2016 | Tenaris S.A. and Talta - Trading e Marketing Sociedade Unipessoal Lda. v. Venezuela | \$243,700,000 | \$137,017,887 |
| 211 | 2012 | 2017 | Saint-Gobain Performance Plastics Europe v. Venezuela | \$90,300,000 | \$29,600,000 |
| 212 | 2012 | 2017 | Supervision y Control S.A. v. Costa Rica | \$320,000,000 | \$0 |
| 213 | 2012 | 2018 | Georg Gavrilovic and Gavrilovic d.o.o. v. Croatia | \$231,734,117 | \$3,200,000 |
| 214 | 2012 | 2018 | Huntington Ingalls Inc. v. Venezuela | \$275,000,000 | \$53,110,516 |
| 215 | 2012 | 2018 | Mercer International, Inc. v. Canada | \$179,956,562 | \$0 |
| 216 | 2013 | 2016 | Isolux Netherlands, BV v. Spain | \$76,100,000 | \$0 |
| 217 | 2013 | 2016 | Joseph Houben v. Burundi | \$9,092,581 | \$209,340 |
| 218 | 2013 | 2016 | Mr. Kristian Almås and Mr. Geir Almås v. Poland | \$25,355,200 | \$0 |
| 219 | 2013 | 2016 | Windstream Energy LLC v. Canada | \$394,126,972 | \$19,010,266 |
| 220 | 2013 | 2017 | Eli Lilly and Company v. Canada | \$375,203,548 | \$0 |
| 221 | 2013 | 2018 | Marfin Investment Group Holdings S.A., Alexandros Bakatselos and others v. Cyprus | \$1,282,230,950 | \$0 |
| 222 | 2013 | 2018 | South American Silver Limited (Bermuda) v. Bolivia | \$307,200,000 | \$18,700,000 |

Exhibit 1: Cases Included in the Second Edition of the Study

| Case Count | Year Registered | Award Year | Case Name | Claim Amount | Award Amount |
|------------|-----------------|------------|---|-----------------|---------------|
| 223 | 2013 | 2019 | EVN AG v. Bulgaria | \$958,460,000 | \$0 |
| 224 | 2014 | 2017 | Anglia Auto Accessories Limited v. Czech Republic | \$1,640,000 | \$0 |
| 225 | 2014 | 2017 | Bear Creek Mining Corporation v. Peru | \$409,400,000 | \$18,237,592 |
| 226 | 2014 | 2017 | IP Busta & JP Busta v. Czech Republic | \$7,257,000 | \$0 |
| 227 | 2014 | 2017 | PL Holding S.A.R.L. v. Poland | \$528,752,000 | \$183,008,000 |
| 228 | 2014 | 2017 | Robert Aleksandrowicz and Tomasz Czescik v. Cyprus | \$4,329,594 | \$0 |
| 229 | 2014 | 2018 | David Aven et al. v. Costa Rica | \$74,100,000 | \$0 |
| 230 | 2014 | 2018 | Louis Dreyfus Armateurs SAS v. India | \$36,155,825 | \$0 |
| 231 | 2014 | 2018 | Olin Holdings Limited v. Libya | \$122,733,000 | \$21,323,250 |
| 232 | 2014 | 2019 | Anglo American PLC v. Venezuela | \$235,400,000 | \$0 |
| 233 | 2014 | 2019 | United Utilities (Tallinn) B.V. and Aktsiaselts Tallinna Vesi v. Estonia | \$73,352,500 | \$0 |
| 234 | 2015 | 2019 | 9REN Holding S.a.r.l v. Spain | \$57,072,640 | \$46,549,872 |
| 235 | 2015 | 2019 | B3 Croatian Courier Coöperatief U.A. v. Croatia | \$57,800,000 | \$0 |
| 236 | 2015 | 2019 | SolEs Badajoz GmbH v. Spain | \$106,800,000 | \$45,685,428 |
| 237 | 2015 | 2019 | Standard Chartered Bank (Hong Kong) Limited v. Tanzania | \$352,514,258 | \$185,449,440 |
| 238 | 2016 | 2018 | HPK Management DOO and HPK Engineering BV v. Serbia | \$20,367,268 | \$11,005,365 |
| 239 | 2016 | 2018 | Kunsttrans Holding GmbH and Kunsttrans d.o.o. Beograd v. Serbia | \$10,300,000 | \$1,900,000 |
| 240 | 2016 | 2019 | ConocoPhillips Gulf of Paria B.V. v. Corporación Venezolana de Petróleo , S.A. and Petróleos de Venezuela, S.A. | \$1,477,000,000 | \$33,700,000 |
| 241 | 2017 | 2019 | Anglo-Adriatic Group Limited v. Albania | \$5,334,133 | \$0 |

Appendix A: Curriculum Vitae of Timothy H. Hart

Tim is a forensic accountant with over thirty-five years of professional experience with particular focus on the financial aspects of international and domestic disputes and investigations. Tim has provided expert testimony in multi-million and billion US dollar disputes around the world. He has assisted clients with many large accounting and financial fraud investigations. Tim has deep expertise in insurance insolvency situations. He is a Certified Public Accountant and a Certified Fraud Examiner.

Professional Experience

Prior to founding Credibility International in 2010 where he is the CEO, Tim was with: (1) Huron Consulting Group from 2008 to 2010, as a vice president and head of the Accounting & Financial Consulting practice; (2) Navigant Consulting, from 2002 to 2008 as a managing director, member of the management committee, and leader of the Disputes & Investigations practice; (3) Arthur Andersen, where he began as a staff auditor in 1984, became a partner in 1996 and finished as a regional practice leader in 2002; and (4) Prime Capital, where he managed a lease portfolio from 1990 to 1991.

Disputes

Tim has testified in hearings and trials, submitted expert testimony or served as an arbitrator on issues primarily relating to accounting, damages, economics, finance, fraud/corruption, and valuation in the following matters that are grouped into international and domestic cases:

International Disputes Testimony:

- **Bursel Tekstil Sanayi Ve Diş Ticaret A.Ş. and Others v. Republic of Uzbekistan; Expropriation;** ICSID Case No. ARB/17/24. Filed an expert report relating to financial issues and damages in November 2020. Dispute involving textile factories in Uzbekistan. (Engaged by Respondent; parties from Turkey & Uzbekistan)
- **Legacy Vulcan, LLC v. United Mexican States; Expropriation;** ICSID Case No. ARB/19/1. Filed an expert report on damages in November 2020. Dispute involving a limestone quarry. (Engaged by Respondent; parties from US & Mexico)
- **Emergofin B.V. and Velbay Holdings Ltd. v. Ukraine; Expropriation;** ICSID Case No. ARB/16/35. Testified in a virtual hearing in November 2020. Filed expert reports on damages in September 2019 and March 2018. Dispute involving aluminum production. (Engaged by Claimants; parties from Netherlands, Cyprus & Ukraine)

- **Invenergy Renewables LLC and Others v. Republic of Poland; Fair and Equitable Treatment and Expropriation;** PCA Case No. 2018-40. Testified in a virtual hearing in September 2020. Filed an expert report on damages in July 2020 and September 2019. Dispute involving wind generation. (Engaged by Respondent; parties from US & Poland)
- **ITOCHU Corporation v. Kingdom of Spain; Fair and Equitable Treatment;** ICSID Case No. ARB/18/25. Filed expert reports on damages in September 2020 and November 2019. Dispute involving solar generation. (Engaged by Respondent; parties from Japan & Spain)
- **Grupo Unidos por el Canal, S.A., Sacyr S.A., Salini-Impregilo S.p.A, and Jan de Nul N.V. v. Autoridad del Canal de Panama; Breach of Contract;** ICC Case No. 22465/ASM/JPA (C-22966/ASM). Filed expert report regarding damages in March 2020. Dispute related to the lock gates and labor escalation cost overruns during the expansion of the Panama Canal. (Engaged by Claimants; parties from Belgium, Italy, Spain & Panama)
- **Kingsgate Consolidated Ltd. and Kingsgate Capital Pty Ltd. v. Kingdom of Thailand; Expropriation;** PCA Case No. 2017-36. Testified in Singapore in February 2020 and via video to Singapore in February 2019. Filed expert reports on damages in October 2019 and January 2019. Dispute involving a gold mine. (Engaged by Respondent; parties from Australia & Thailand)
- **Grupo Unidos por el Canal, S.A., Sacyr S.A., Salini-Impregilo S.p.A, and Jan de Nul N.V. v. Autoridad del Canal de Panama; Breach of Contract;** ICC Case No. 22466/ASM/JPA (C-22967/ASM). Filed expert report regarding damages in January 2020. Dispute involving Tranche I of the remaining cost overruns in the expansion of the Panama Canal. (Engaged by Claimants; parties from Belgium, Italy, Spain & Panama)
- **Infinito Gold Ltd. v. Republic of Costa Rica; Expropriation;** ICSID Case No. ARB/14/5. Testified in Washington DC in July 2019. Filed expert reports on damages in May 2019 and July 2018. Dispute involving exploration/development stage gold mining project. (Engaged by Respondent; parties from Canada & Costa Rica)
- **Emrock Aggregate & Mining LLC and SFOH Ltd. v. Oman Mining Company LLC; Expropriation;** Ad Hoc Arbitration Under the Omani Law of Arbitration. Testified in London in March 2019. Filed expert reports on damages in July and May 2019 and November and September 2018. Dispute involving a limestone quarry in Oman. (Engaged by Respondent; parties from UAE & Oman)
- **Cunico Resources N.V. v. Republic of North Macedonia; Expropriation;** ICSID Case No. ARB/17/46. Filed expert report relating to financial issues and damages in April 2019. Dispute involving a ferronickel producer in North Macedonia. (Engaged by Respondent; parties from Netherlands & North Macedonia)
- **Vladislav Kim and Others v. Republic of Uzbekistan; Expropriation;** ICSID Case No. ARB/13/6. Testified in Washington DC in July 2015. Filed expert reports relating to financial issues and damages in March 2019, October 2018 and September 2017. Filed expert reports on financial issues in March 2015 and August 2014 relating to a jurisdictional filing. Dispute involving two cement plants in Uzbekistan. Case settled. (Engaged by Respondent; parties from Kazakhstan & Uzbekistan)
- **Grupo Unidos por el Canal, S.A., Sacyr S.A., Salini-Impregilo S.p.A, and Jan de Nul N.V. v. Autoridad del Canal de Panama; Breach of Contract;** ICC Case No. 20910/ASM/JPA (C-20911/ASM). Testified in Miami in February 2019. Filed expert reports regarding damages in June 2018 and 2017, confidentiality order in March 2017, and interim measures in December 2016. Dispute involving cost overruns related to the basalt and concrete aggregate in the expansion of the Panama Canal. (Engaged by Claimants; parties from Belgium, Italy, Spain & Panama)
- **Slot Group a.s. v. Republic of Poland; Expropriation;** PCA Case No. 2017-10. Testified in The Hague in October 2018. Filed expert report on damages in November 2017. Dispute involving the gambling industry in Poland. (Engaged by Respondent; parties from Czech Republic & Poland)
- **Michael Ballantine and Lisa Ballantine v. Dominican Republic; Expropriation;** UNCITRAL and DR-CAFTA. Testified in Washington DC in September 2018. Filed expert reports on damages in March 2018 and May 2017. Dispute involving real estate with a resort development. (Engaged by Respondent; parties from US & Dominican Republic)
- **Eoltec Energy, S.L. and Corporación Montealto XXI, S.L. v. ContourGlobal Latam, S.A; Breach of Contract;** ICC Case No. 21070/ASM. Testified in Madrid in April 2018 and February 2018. Filed expert reports on the financial position of a number of companies in August 2017 and December 2017. Dispute involving the operations of wind farms in Peru. (Engaged by Respondent; parties from Spain & Colombia)

- **Ferrocarriles del Norte de Colombia S.A. (“FENOCO”) v. Drummond Coal Mining LLC, Drummond Ltd., et al.; Breach of Contract**; ICC Case No. 19576/CA/ASM. Testified in Bogota in February 2018. Filed expert reports on damages in August 2017, June 2017 and November 2016. Dispute involving a coal mining operation in Colombia with claims of alleged breaches in contractual obligations involving the rail transport of the coal and issues at the port. (Engaged by Claimant; parties from Colombia & US)
- **Grupo Unidos por el Canal, S.A., Sacyr S.A., Salini-Impregilo S.p.A, and Jan de Nul N.V., Constructora Urbana S.A., and Sofidra S.A. v. Autoridad del Canal de Panama; Breach of Contract**; ICC Case No. 22588/ASM/JPA. Filed expert reports regarding financial position of parties to the dispute in a request for interim measures in February 2018. Dispute involving cost overruns in the construction of the new portion of the Panama Canal. (Engaged by Claimants; parties from Belgium, Italy & Panama)
- **Louis Dreyfus Amateurs SAS v. Republic of India; Expropriation**; UNCITRAL PCA Case No. 2014-26. Testified in London in December 2017. Filed expert reports on damages in August 2017 and October 2016. Dispute involving an investment in a port in India. (Engaged by Respondent; parties from France & India)
- **Güneş Tekstil Konfeksiyon Sanayi ve Ticaret Ltd. Şirketi, Vahit Güneş, Reşat Güneş, Fikret Güneş, İbrahim Eksilmez, and Yücel Yıldız v. Republic of Uzbekistan; Expropriation**; ICSID Case No. ARB/13/19. Testified in Paris in November 2017. Filed expert reports on financial issues and damages in August 2017 and 2016. Dispute involving real estate, retail and wholesale trade, and light manufacturing in Uzbekistan. (Engaged by Respondent; parties from Turkey & Uzbekistan)
- **B3 Croatian Courier Coöperatief U.A. v. Republic of Croatia; Expropriation**; ICSID Case No. ARB/15/5. Testified in Paris in March 2017. Filed expert reports on damages in January 2017 and May 2016. Dispute involving the postal industry in Croatia. (Engaged by Respondent; parties from Netherlands & Croatia)
- **FFF Holdings B.V. and Gleb Gennadievich Fetisov v. Vladimir Vladimirovich Malin; Breach of Contract**; LCIA Case No. 153088. Testified in London in March 2017. Filed an expert report on damages in January 2017. Case involving a failed bank in Russia. (Engaged by Claimants; parties from Russia)
- **David R. Aven, et al. v. Republic of Costa Rica; Expropriation**; UNCITRAL PCA Case No. UNCT/15/3. Testified in Washington DC in February 2017. Filed expert reports on damages in October 2016 and April 2016. Dispute involving an investment in a planned real estate resort development in Costa Rica. (Engaged by Respondent; parties from US & Costa Rica)
- **Grupo Unidos por el Canal, S.A., Sacyr S.A., Salini-Impregilo S.p.A, and Jan de Nul N.V. v. Autoridad del Canal de Panama; Breach of Contract**; ICC Case No. 19962/ASM. Testified in Miami in July 2016. Filed a joint expert report in March 2016 and an expert report on damages in October 2015. Dispute involving cost overruns related to the cofferdam and Cocoli River diversion in the construction of the new portion of the Panama Canal. (Engaged by Claimants; parties from Belgium, Italy, Spain & Panama)
- **Horthel Systems B.V., Tesa Beheer B.V and Poland Gaming Holding B.V. v. Republic of Poland; Expropriation**; UNCITRAL PCA Case No. 2014-31. Testified in The Hague in June 2016. Filed expert reports on damages in October 2016, September 2016, April 2016, and September 2015. Dispute involving the gambling industry in Poland. (Engaged by Respondent; parties from Netherlands & Poland)
- **Valores Mundiales, S.L. Consorcio Andino, S.L. v. Bolivarian Republic of Venezuela; Expropriation**; ICSID Case No. ARB/13/11. Testified in Washington DC in February 2016. Filed joint expert reports on damages in October and March 2015. Dispute involving grain milling and distribution in Venezuela. (Engaged by Respondent; parties from Spain & Venezuela)
- **Spentex Netherlands, B.V. v. Republic of Uzbekistan; Expropriation**; ICSID Case No. ARB/13/26. Testified in Washington DC in September 2015. Filed expert reports on financial issues and damages in August 2015 and December 2014. Dispute involving textile factories in Uzbekistan. (Engaged by Respondent; parties from Netherlands & Uzbekistan)
- **Cem Cengiz Uzan v. Republic of Turkey; Expropriation**; SCC Case No. V 2014/023. Filed expert report on financial issues in June 2015 in the jurisdictional phase. Dispute involving two electric generation, transmission and distribution companies in Turkey. Jurisdiction was denied. (Engaged by Respondent; parties from England & Turkey)

- **Tenaris S.A. and Talta – Trading e Marketing Sociedade Unipessoal Lda. v. Bolivarian Republic of Venezuela; Expropriation;** ICSID Case No. ARB/12/23. Testified in Washington DC in June 2015. Filed expert reports on damages in April 2015 and October 2014. Dispute involving the valuation of a steel tube factory and a minority investment in a hot briquetted iron plant in Venezuela. (Engaged by Respondent; parties from Luxembourg, Portugal & Venezuela)
- **Crystallex International Corporation v. Bolivarian Republic of Venezuela; Expropriation;** ICSID Case No. ARB/11/2. Testified in Paris in November 2014 and in Washington DC in February 2014. Filed expert reports on damages in October 2014, September 2013, and November 2012. Dispute involving the valuation of an investment in a gold mining concession in Venezuela. The award was for \$1.2 billion of the \$3.1 billion claimed. (Engaged by Respondent; parties from Canada & Venezuela)
- **Oxus Gold plc v. Republic of Uzbekistan; Expropriation;** UNCITRAL Arbitration. Testified in Paris in May 2014. Filed expert reports on damages in July 2014, February 2014 and February 2013. Dispute involving the valuation of investments in gold and other mineral mining interests in Uzbekistan. The award was for the exact amount presented by Hart which was less than one percent of the \$1.3 billion claim. (Engaged by Respondent; parties from England & Uzbekistan)
- **Tenaris S.A. and Talta – Trading e Marketing Sociedade Unipessoal Lda. v. Bolivarian Republic of Venezuela; Expropriation;** ICSID Case No. ARB/11/26. Testified in Washington DC in February 2014. Filed expert reports on damages in December and May 2013. Dispute involving the valuation of a hot briquetted iron plant in Venezuela. The award was for \$87 million of the \$324 million claimed. (Engaged by Respondent; parties from Luxembourg, Portugal & Venezuela)
- **Supervisión y Control S.A. v. Republic of Costa Rica; Breach of Contract;** ICSID Case No. ARB/12/4. Testified in Washington DC in January 2014. Filed expert reports on damages in January and September 2013. Dispute involving the tariffs for the national vehicle inspection services concession in Costa Rica. (Engaged by Respondent; parties from Spain & Costa Rica)
- **Telecom Egypt Company v. Vodafone Egypt Telecommunications, Vodafone Group Plc, Vodafone Europe BV, Vodafone International Holdings BV; Breach of Contract;** Cairo Regional Center for International Commercial Arbitration (CRCICA) arbitration 650 of the year 2009. Testified in Paris in November 2013. Filed expert reports on damages in October 2012, January 2011, and November 2011. Dispute involving an agreement between the fixed line operator and a wireless operator on matters of interconnect and other settlement charges. (Engaged by Claimant; parties from Egypt)
- **The Egyptian Company for Mobile Phone Services (Mobinil) v. Telecom Egypt Company; Breach of Contract;** Cairo Regional Center for International Commercial Arbitration (CRCICA) arbitration 644 of the year 2009. Testified in Cairo in October 2013. Filed expert reports on damages in January 2012 and December 2010. Dispute involving an agreement between the fixed line operator and a wireless operator on matters of interconnect and other settlement charges. (Engaged by Respondent; parties from Egypt)
- **Franck Charles Arif v. Republic of Moldova; Expropriation;** ICSID Case No. ARB/11/23. Testified in Paris in November 2012. Filed expert reports on damages in October and May 2012. Dispute involving the investment in duty free shops at an airport in Moldova and on the Moldovan/Romanian border. Damages of less than three percent of the claim were awarded based on invested costs. (Engaged by Respondent; parties from France & Moldova)
- **Highbury International AVV and Ramstein Trading Inc. v. Bolivarian Republic of Venezuela; Expropriation;** ICSID Case No. ARB/11/1. Testified in Washington DC in August 2012. Filed expert reports on damages in May 2012 and December 2011. Dispute involving the valuation of an investment in gold and diamond mining concessions in Venezuela. Tribunal found no jurisdiction after hearing on the merits. (Engaged by Respondent; parties from Netherlands & Venezuela)
- **Merck Sharpe & Dohme (I.A.) Corporation v. Republic of Ecuador; Denial of Justice;** UNCITRAL Case No. 2012-10. Filed expert reports regarding the financial condition of Claimant in July and August 2012. Dispute involving a request for interim measures involving a \$150 million judgment in Ecuador. Interim measures were denied. (Engaged by Respondent; parties from US & Ecuador)

- **International College of IT and Management (U.S.A.) v. Troy State University; Breach of Contract**; ICC Case No. 16 892/VRO. Testified in New York in February 2012. Filed expert reports on damages in August and December 2011. Dispute involving college programs in Vietnam. (Engaged by Respondent; parties from Vietnam & US)
- **Regis Paillardon v. Archer-Daniels-Midland Company and ADM Latin America, Inc.; Breach of Contract**; American Arbitration Association (AAA) International Centre for Dispute Resolution Case No. 50180T004310. Testified in Miami in September 2011. Filed an expert report on damages in July 2011. Dispute involving a joint venture dealing in agricultural commodities. (Engaged by Respondents; parties from Venezuela & US)
- **Fluviomar International Ltd. v. MMX Corumbá Mineração S.A. and MMX Metálicos Corumbá Ltda; Breach of Contract**; Society of Maritime Arbitrators. Filed a post-award affidavit in the US District Court Southern District of New York in July 2011. Testified in New York in August 2010. Filed an expert report on damages in June 2010. Dispute involving a shipping contract for iron ore and pig iron. (Engaged by Respondents; parties from Argentina & Brazil)
- **Diners Club Ecuador S.A. v. Diners Club International Ltd; Breach of Contract**; ICC Case No. 15540/JRF. Testified in London in July 2010. Filed expert reports on damages in May 2010 and October 2009. Dispute involving the operation of payment card operations in Ecuador. (Engaged by Respondent; parties from Ecuador & US)
- **Vannessa Ventures Ltd. v. Bolivarian Republic of Venezuela; Expropriation**; ICSID Case No. ARB(AF)/04/6. Filed expert reports on damages in January 2010 and March 2009. Dispute involving the valuation of a gold mine in Venezuela. The final award found no liability. (Engaged by Respondent; parties from Canada & Venezuela)
- **Diners Club (Singapore) Pte. Ltd., Diners Club (NZ) Ltd., Diners Club (Malaysia) Sdn. Bhd. v. Diners Club International Ltd; Breach of Contract**; ICC Case No. 15339/JEM. Testified in London in December 2009. Filed expert reports on damages in September and February 2009. Dispute involving the operation of payment card operations in Singapore, New Zealand and Malaysia. (Engaged by Respondent; parties from Malaysia, New Zealand, Singapore & US)
- **S&T Oil Equipment & Machinery Ltd. v. Government of Romania; Expropriation**; ICSID Case No. ARB/07/13. Filed expert reports on damages in July 2009 and December 2008. Dispute involving the privatization of an ammonia plant in Romania. Matter discontinued due to lack of payment by Claimant. (Engaged by Respondent; parties from US & Romania)
- **MMX Corumbá Mineração LTDA and MMX Trade & Shipping LLC v. Ereğli Demir Ve Çelik Fabrikalari; Breach of Contract**; ICC Case No. 16056/VRO. Filed an expert report on damages in July 2009. Dispute involving a supply contract for iron ore involving parties from Brazil, Turkey and the US. Matter settled. (Engaged by Claimants; parties from Brazil & Turkey)
- **Nejapa Power Company, LLC v. Comisión Ejecutiva Hidroeléctrica Del Río Lempa; Breach of Contract**; Testified in April 2009 in Washington DC. Filed expert reports on damages in March 2009 and October 2008 in an international arbitration conducted under the rules of the UN Commission on International Trade Law. Dispute relating to a power purchase agreement in El Salvador. (Engaged by Respondent; parties from US & El Salvador)
- **FLAG Telecom Group Ltd. v. Videsh Sanchar Nigam Ltd.; Breach of Contract**; ICC Case No. 13 638/JNK/EBS. Testified in The Hague in November 2007. Filed expert reports in October and May 2007 on lost profits claim relating to international telecommunications and the Indian market. Claimant awarded damages in the amount presented by Hart. (Engaged by Respondent; parties from UK & India)
- **UEG Araucaria Ltda. v. Companhia Paranaense de Energia; Breach of Contract**. Filed expert reports in May and December 2005 in an ICC case on the losses sustained by a consortium of investors contracted to build a gas-fired thermal power plant in Brazil. Matter settled. (Engaged by Claimant; parties from US & Brazil)
- **Noble Ventures v. Government of Romania; Expropriation**; ICSID Case No. ARB/01/11. Filed expert reports in January and August 2004. Dispute involving the privatization of a steel company and electric generation assets in Romania. The tribunal returned a decision awarding no damages to Claimant. (Engaged by Respondent; parties from US & Romania)

- **GAMI Investments, Inc. v. Government of the United Mexican States; Expropriation**; NAFTA. Filed expert reports in February 2004 and February 2003. Matter involving the valuation of the investment in five sugar mills and the damages related to an expropriation in Mexico. The mills were returned to Claimant just prior the hearings. (Engaged by Claimant; parties from US & Mexico)
- **Ceskoslovenska Obchodni Banka (CSOB) v. Slovak Republic; Breach of Contract**; ICSID Case No. ARB/97/4. Testified in April 2003. Filed expert reports in August 2001 and November 1999. Dispute involving the moneys owed related to the obligations of the Slovak Republic relating to the debt of the foreign trade bank of the former Czechoslovakia. Award for Claimant of \$877 million. (Engaged by Claimant; parties from Czech Republic & Slovak Republic)
- **Americas and Caribbean Power Ltd. v. Cooperative Republic of Guyana; Investment Dispute**; Private arbitration. Served as the chair of the panel of arbitrators in March 2003 relating to a dispute over tariffs and the required capital investments. (Engaged as the chair of the panel; parties from US & Guyana)
- **MCI Global Resources, Inc. and MCI International, Inc., v. Metro Position Sdn. Bhd.; Breach of Contract**; ICC Case No. 9134/CK. Testified in September 1997 in Paris. Filed an expert report in May 1997. Dispute involving pre-paid calling cards. (Engaged by Claimants; parties from US & Malaysia)

Domestic Disputes Testimony:

- **Charles David Wood, Jr. and DNIC Insurance Holdings et al. v. U.S. Bank National Association et al.; Breach of Fiduciary Duty, Unjust Enrichment, Fraudulent Conveyance**; Court of Chancery, Delaware, Civil Action No.: 2017-0034-JTL. Filed an expert report on the benefits received by parties to the litigation and the conduct of certain executives in December 2020. Dispute involving the failure of an insurer and reinsurance company. (Engaged by defendant)
- **The Official Stanford Investors Committee, Peggy Roif Rotstain, et al., v. Trustmark National Bank, et al.; Aiding and Abetting Fraud and Breach of Fiduciary Duty**; U.S. District Court for the Northern District of Texas; Case No. 3:09-CV-02384-N; Filed an expert report regarding the fraud perpetrated by Allen Stanford and his coconspirators in the operation of a decades-long Ponzi scheme and the related allegations against Trustmark. (Engaged by defendants)
- **Janet Fyock et al. v. Fifth Third Bank; Beach of Contract**; U.S. District Court for the Southern District of Ohio Western Division; Case No. 1:12-CV-00851; Filed expert declaration regarding damages and class certification issues in July 2020 in a dispute involving cash advance loans and related disclosures. (Engaged by defendants)
- **Ad Astra Recovery Services, Inc. v. John Clifford Heath, Esq., Lexington Law Firm, et al; RICO**; U.S. District Court for the District of Kansas - Wichita, Case No. 6:18-cv-01145-JWB-KGS. Filed expert reports on damages in February 2020 and November 2019. Dispute involving the bill collection industry. (Engaged by defendants)
- **Senior Health Insurance Company of Pennsylvania v. Beechwood Re Ltd., et al; Breach of Contract, Breach of Fiduciary Duty, Fraud in the Inducement, Gross Negligence**; U.S. District Court for the Southern District of New York, Case No. 1:18-cv-06658. Testified in deposition in December 2019. Filed expert reports in December 2019, November 2019 December 2018 on issues of fraud and damages. Dispute involves the management of an insurer's assets involved with the collapse of hedge funds and related party reinsurers. (Engaged by plaintiff)
- **Anthony S. Unger, M.D. v. Zimmer Biomet Holdings, Inc. and Biomet Manufacturing, LLC; Breach of Contract**; CPR File G-19-15-G. Testified in New York in hearing in September 2019. Filed expert report relating to breach of contract damages in August 2019. Dispute involving an agreement for the development of knee replacement products. (Engaged by Claimant)
- **Accident Insurance Company, Inc. v. U.S. Bank National Association; Breach of Contract, Negligence and Misrepresentation**, U.S. District Court, South Carolina, Case No. 3:16-cv-2621-JMC. Testified in bench trial in July 2019. Filed expert reports on damages in June 2019 and July 2018. Dispute involving the failure of a reinsurance company and collateral held in a bank trust account. (Engaged by defendant)
- **DT Consultants, LLC v. Howmedica Osteonics Corporation.; Breach of Contract**, U.S. District Court, Maryland, Case No. 1:17-cv-01697-GLR. Testified in deposition in May 2019. Filed expert reports on damages in April 2019 and February 2019. Dispute involves a license agreement involving medical data. (Engaged by defendant)

- **Whirlpool Corporation v. Drinker Biddle & Reath LLP, et al; Malpractice**, Circuit Court of Cook County, Illinois, Case No. 2015-L-007631. Testified in jury trial in November 2018 and deposition in June 2018. Filed an expert report on damages in May 2018 involving lost profits and excess cost claims related to import duties involving parts for household appliances. Jury returned defense verdict. (Engaged by defendants)
- **Prostar Wireless Group, LLC v. Domino's Pizza, Inc.; and Does 1-100; Breach of Contract, Tortious Interference, Breach of Fiduciary Duty, Interference with Economic Relations and Misappropriation of Trade Secrets**; U.S. District Court for the Northern District of California, Case No. 3:16-cv-05399-WHO. Testified in deposition in October 2018. Filed an expert report on damages in September 2018. Dispute involving the development of software for food delivery. Case dismissed on summary judgement. (Engaged by defendant)
- **Profit Investment Management, LLC and Eugene R. Profit v. Michelle Profit, Dr. Joseph Quash, and Dr. Thomas Pinder; Negligence**; Montgomery County Circuit Court, Maryland, Case No. 430677-V. Filed an expert report on damages in December 2017. Dispute involving an asset management business. Case settled before trial. (Engaged by plaintiffs)
- **Companion Property and Casualty Insurance Company (n/k/a Sussex Insurance Company) v. U.S. Bank National Association / U.S. Bank National Association as 3rd party plaintiff v. 3rd party defendants Redwood Reinsurance SPC, Ltd., Southport Lane Advisors, Southport Specialty Finance, Administrative Agency Services and Alexander Chatfield Burns; Breach of Contract**; U.S. District Court of South Carolina Columbia Division, Case No. 3:15-cv-1300 JMC. Filed expert reports on fraud and damages in April and March 2017. Dispute involving the failure of two reinsurance companies and collateral held in bank trust accounts. Case settled before trial. (Engaged by defendants)
- **Franklin Raines v. Federal National Mortgage Association, et al.; Breach of Contract**; Arbitration. Testified in Washington DC in hearing and deposition in February 2017. Filed expert reports in February 2017 and April 2016. Dispute involving the pension benefits due upon plan termination. (Engaged by claimant)
- **Synergics Energy Service, LLC v. Algonquin Power Fund (America), Inc.; Breach of Contract**; U.S. District Court of Maryland, Case No. 1:13-cv-2257. Filed an expert report on damages in October 2014. Dispute involving the sale of power generation assets. Case settled before trial. (Engaged by plaintiff)
- **Aetna Life Insurance Company v. Inovalon, Inc.; Breach of Contract**; AAA, Case No. 12 193 Y176 13. Filed an expert report on damages in May 2014. Dispute involving advanced data analytics in the health insurance industry. (Engaged by Respondent)
- **Orbital Sciences Corporation v. United Launch Alliance, LLC and RD Amross, LLC; Antitrust**; U.S. District Court for the Eastern District of Virginia, Case No. 1:13-CV-00753 LMB/JFA. Testified in deposition in March 2014. Filed an expert report on damages in February 2014. Dispute involving the availability of rocket engines for space launch vehicles in the United States. Case settled before trial. (Engaged by plaintiff)
- **Spanski Enterprises, Inc. v. Telewizja Polska S.A.; Breach of Contract**; U.S. District Court for the Southern District of New York, Case No. CV 10 CV 4933. Testified in bench trial in July 2013 and in deposition in June 2012. Filed expert reports on damages in April and May 2012. Dispute involving distribution rights for Polish television content for broadcast and Internet distribution in the Americas. Court awarded a small portion of the damages claimed. (Engaged by defendant)
- **Securities Investor Protection Corporation v. Bernard L. Madoff Investment Securities LLC; Bankruptcy**; U.S. Bankruptcy Court Southern District of New York, Case No. 08-1789(BRL). Filed an expert report in April 2013 relating to the claim valuation methodology and accounting for the time value of money. (Engaged by certain customer defendants)
- **Oral Cancer Prevention International, Inc. v. OraPharma. Inc., Johnson & Johnson, and Johnson & Johnson Consumer Companies, Inc.; Breach of Contract**; AAA, Case No. 13 122 Y 01477 12. Testified in a hearing in New York in February 2013. Filed an expert report on damages in December 2012. Dispute involving the sales of an oral cancer detection product. (Engaged by Claimant)
- **John DeGroot Services, LLC, et al. v. F. Edwin Harbach, et al.; Breach of Fiduciary Duties**; Circuit Court Fairfax, Virginia, Civil Action No. 2011-10612. Filed an expert report on damages in January 2013. Dispute involving claims against a former officer and the directors of BearingPoint related to events preceding bankruptcy. Case settled before trial. (Engaged by defendant)

- **John Garamendi v. Altus Finance S.A., et al;** **Fraud**; U.S. District Court for the Central District of California, Case No. CV-99-02829 (CWx). Testified in jury trial in October 2012 and deposition in August 2009. Filed an expert report on damages in April 2009 involving the insolvency of Executive Life Insurance Company and the fraud involving the French government. No liability found by jury. (Engaged by plaintiff)
- **BDO Seidman LLP v. Morgan Lewis & Bockius LLP;** **Professional Negligence, Legal Malpractice, Breach of Fiduciary Duty, Fraud, Breach of Contract**; Superior Court for the District of Columbia. Filed an affidavit in April 2012 and testified in deposition in November 2011. Filed expert reports on damages in January 2012 and October 2011. Dispute involving legal advice to the accounting firm in general and their tax products business. Matter dismissed on summary judgment. (Engaged by plaintiff)
- **PSM Holding Corporation v. National Farm Financial Corporation, et al.;** **Breach of Contract, Fraud**; U.S. District Court for the Central District of California, Case No. CV 05-8891 MMM (FMOx). Testified in deposition and filed an expert report as the court appointed expert on valuation in March 2012. Dispute involving claims for restitution relating to an insurance company that was improperly transferred and later returned to the original owner. (Engaged as court appointed expert)
- **Petrus W. Roelvink, Ph.D v. Medimmune, LLC;** **Wrongful Termination**; AAA. Filed an expert report on damages in February 2011 involving lost back pay and future lost compensation. Matter settled before the hearing. (Engaged by Respondent)
- **Fifth Third Bank v. Transamerica Life Insurance Company and Clark Consulting, Inc.;** **Breach of Contract, Breach of Fiduciary Duty, Professional Negligence, Fraud, Negligent Misrepresentation and Insurance Bad Faith**; U.S. District Court Southern District of Ohio Western Division. Testified in deposition in January 2010. Filed an expert report on damages in November 2009. Dispute involving the performance of investments supporting Bank Owned Life Insurance. Matter settled before trial. (Engaged by defendants)
- **British Sky Broadcasting Ltd. and Sky Subscriber Services Ltd. v. Electronic Data Systems Ltd. and Electronic Data Systems Corporation;** **Breach of Contract**; Testified in the High Court of Justice, Queen's Bench Division – Technology and Construction Court (England & Wales) in July 2008 as damages expert and filed a joint memorandum of the experts following the judgment in February 2010. Filed a number of expert reports with respect to costs and lost benefits from August 2007 through June 2008 on breach of contract and negligent misrepresentation claims relating to a customer relationship management system. Matter settled following award. (Engaged by defendants)
- **Invensys Building Systems, Inc., et al. v. Aztec Energy Partners, Inc. et al.;** **Tortious Interference**; Federal District Court for the Northern District of Georgia, Case No. 1:03-CV-1727 (BBM). Filed an expert report in February 2004 on lost profit damages and valuation of the loss of enterprise value relating to the departure of key employees and their actions in an energy controls business. (Engaged by plaintiff)
- **Eplus, Inc. v. Centura Bank;** **Breach of Contract**; AAA Case No. 16 Y 168 00417 01. Filed an expert report on damages in January 2002. Testified in deposition in June 2002. Matter involving a post-acquisition dispute relating to an equipment leasing company. Matter settled. (Engaged by plaintiff)
- **DCV Holdings, Inc. v. ConAgra, Inc. and DuPont, et al.;** **Breach of Contract and Antitrust**; Delaware Superior Court Case No. 98C-06-301-JEB. Testified in deposition in November 2001. Filed an expert report in October 2001. Matter involving a post purchase dispute involving alleged breach of warranties. (Engaged by defendants)
- **MCI WorldCom Communications, Inc. v. Electronic Data Systems Corporation, et al.;** **Breach of Contract**; AAA, Arbitration No. 13-Y-180-00223-01. Filed an expert report in July 2001 rebutting the opinions of an economist and accountant regarding issues of damages and liability in a case involving an outsourcing contract valued at over \$6 billion. (Engaged by plaintiff)
- **Bernard B. Fulk III v. Washington Service Associates, et al.;** **Breach of Contract**; Delaware State Chancery Court Case No. 17747. Filed affidavit testimony in May 2001 providing findings and opinions regarding the application of Generally Accepted Accounting Principles as related to the potential dissolution of a business. (Engaged by defendants)

- **District of Columbia – City Council; Legislative;** Hearings on proposed legislation, the New Economy Transformation Act of 2000, July 2000. Testified on the potential fiscal impact to the District of Columbia resulting from the economic and tax incentives in the proposed legislation. The legislation as proposed became law. (Engaged by bill sponsors)
- **CSX Corporation v. Norfolk Southern Corporation; Breach of Contract;** AAA. Testified in September 1999. Dispute involving the appropriate treatment of the Philadelphia headquarters office lease under the transaction agreement related to the split of Conrail. Testimony involving the application of Generally Accepted Accounting Principles and the economics of the lease transaction. (Engaged by plaintiff)
- **Callaghan v. Gruner & Jahr; Breach of Contract;** AAA. Testified in June 1999. Dispute involving the application of GAAP pertaining to computation of income and assets related to contractual compensation. (Engaged by plaintiff)
- **Richard Hines v. Win Laboratories; Breach of Contract;** Virginia State Court. Testified in deposition in February 1999. Dispute involving a claim for a bonus on the basis of lost profits related to the manufacture and sale of personal computers. (Engaged by defendant)
- **H.G. Smithy v. Cushman & Wakefield; Breach of Contract;** Arbitration, October 1998. Served as arbitrator. Dispute involving the calculation of the purchase price on the sale of a real estate management company portfolio including the appropriate revenue to consider and treatment of overhead expenses.
- **D’Andrea v. American Communications Services Inc.; Breach of Contract;** Anne Arundel County Court, Maryland. Testified in deposition in June 1998. Filed an expert report in May 1998. Matter involving an employment dispute with testimony on internal controls and the operations of accounting and finance departments. (Engaged by plaintiff)
- **Group Hospitalization and Medical Services, Inc., v. Policy Management Systems Corporation; Breach of Contract;** U.S. District Court, District of Columbia, Civil Action No. 97cv790. Testified on damages in deposition in May 1998. Filed an expert report in March 1998. Dispute involving royalty and commissions due under the contract. (Engaged by plaintiff)
- **The Rehabilitation of Mutual Benefit Life; Insolvency;** New Jersey Chancery Court, Docket No. C-91-00109. Filed affidavit in January 1998. The affidavit testimony provided the methodology and calculations necessary to file a claim on behalf of the state life and health insurance guaranty associations for creditor claims arising prior to the rehabilitation of the company.
- **Liquidation of Coastal States Life; Insolvency;** Fulton County (Georgia) Superior Court. Testified at trial in September 1996. Liquidation hearing relating to Coastal States Life Insurance Company. Testimony related to the financial condition of the company and the reinsurance transaction proposed to take care of the affected policyholders. (Engaged by a creditor)
- **Emhart/Dynapert v. Universal Instruments; Patent Infringement;** U.S. District Court, Albany, NY; Testified in deposition to lost profit damages in 1991. Filed an expert report in 1991. (Engaged by plaintiff)

Corporate Restructuring / Insolvency

Tim has assisted stakeholders in troubled financial situations involving restructuring and insolvency, including the following:

- Provided financial, accounting, systems, project management and transaction services relating to insolvencies including: Guaranty Security Life Insurance Company (1991-1993), Mutual Benefit Life Insurance Company (1992-1994), Investment Life Insurance Company of America (1993-1994), Consolidated National Life Insurance Company (1994), Alabama Life Insurance Company (1994), American Educators Life Insurance Company (1994), Mutual Security Life Insurance Company (1994), Summit National Life Insurance Company (1994), Monarch Life (1994-2001), Fidelity Bankers Life Insurance Company (1995-2000), National American Life (1995), Executive Life Insurance Company (1996-2001), Coastal States Life (1996), American Standard Life Insurance Company (1997-1999); Statesman National Life Insurance Company (1999); Thunor Trust Companies (1999-2001); Reliance Insurance Company (2001); London Pacific Life & Annuity (2002-2004); Life and Health Insurance Company of America (2004); Executive Life Insurance Company of New York (2007-2008); Standard Life Insurance Company of Indiana (2008-2011); Shenandoah Life Insurance Company (2009-2011)
- Assisted a financial services regulator in the special examination of a company providing advice on asset valuation issues. (2009-2010)
- Negotiated a sale of telecommunication assets from a lease portfolio to reduce debt. Coordinated the due diligence with the buyer and implementation of the equipment sale agreement. (1991)

Investigations

Tim has performed a wide range of forensic accounting investigations including situations involving alleged accounting fraud, asset defalcation and violation of regulations or company policy. The following are representative of Tim's investigative experience:

- Performed an accounting investigation of not-for-profit organization on behalf of a board of directors (2014)
- Performed an accounting investigation of not-for-profit foundation on behalf of a special committee (2013)
- Performed an investigation of sales practices on behalf of top management of a medical device company (2009)
- Performed a special examination focused upon the distressed assets of a large life insurer on behalf of a state insurance commissioner (2009)
- Performed an independent investigation on behalf of the audit committee of the board of directors of a chemical company that was undergoing an SEC investigation (2005-2006)
- Performed an independent investigation on behalf of the audit committee of the board of directors of a medical practice company that was undergoing an SEC investigation (2005)
- Performed independent investigations on behalf of the special committees of the board of directors of two for-profit post-secondary education providers responsive to various federal investigations (2005-2006)
- Performed an independent accounting investigation on behalf of the audit committee of a medical device company responsive to an SEC investigation (2003-2004)
- Performed an investigation and provided litigation support relating to a cable company involving a wide range of accounting and operational issues (2003-2004)
- Performed an accounting investigation of a retailer responsive to an SEC investigation to identify the causes of a balance sheet misstatement including interviews of top management and operating personnel in concert with forensic accounting review of the related accounts (2002-2003)

- Provided litigation support including forensic accounting and investigative services for counsel to an audit firm in response to the congressional, civil, SEC and criminal investigations and litigation involving an energy company (2002)
- Engaged by the board of a parent company to investigate and then restructure an insurance brokerage (2000)

Audit

Tim performed audits primarily focused on regulated and government entities.

Publications

- **“Study of Damages in International Center for the Settlement of Investment Disputes Cases”**, Transnational Dispute Management, June 2014

- Coordinated a team to provide a consortium of law firms with financial analysis, document production, distribution and retrieval of information involving an investment bank’s junk bond operation (1987-1989)
- Investigated and quantified the amount embezzled from a not-for-profit over a two and one half year period (1988)

Speeches

- **“Financial Services – The Broken Promises”**; University of Notre Dame Mendoza School of Business Ethics Week, February 2012

Education and Professional Certifications

- Bachelor of Business Administration, University of Notre Dame 1984
- Certified Public Accountant 1986, licensed in Washington, DC
- Certified Fraud Examiner 2002

Appendix B: Curriculum Vitae of Rebecca Vélez

Rebecca provides accounting and financial consulting services to clients involved in litigation, arbitration, and other complex business disputes. She has significant experience in international arbitrations involving both contract and treaty claims under ICSID, ICC, UNCITRAL, SCC, PCA and AAA rules. Rebecca has filed expert reports on damages for arbitrations in both English and Spanish and has provided oral testimony at the World Bank.

Her clients have included corporations and sovereign nations worldwide and her engagements have spanned over various industries including energy, oil & gas, mining, toll roads and real estate, among others.

Professional Experience

Prior to joining Credibility International, Rebecca provided accounting and financial advisory services at Grant Thornton, Huron Consulting Group, and PricewaterhouseCoopers.

Representative examples of Rebecca’s engagement experience include:

Expert Testimony

- **Legacy Vulcan LLP v. United Mexican States** (ICSID Case No. ARB/19/1) Concession contract relating to a port terminal and authorizations for two lime extraction plants in Mexico. Filed expert report on damages in November 2020. Engaged by Respondent; Parties from US & Mexico.
- **Hydrika 1 S.A.C. and others v. Republic of Peru** (ICSID Case No. ARB/18/48) Breach of contract involving a cost claim relating to the construction and operation of six renewable energy plants. Filed expert report on damages in Spanish in August 2020. Engaged by Respondent; Parties from Peru.
- **Rutas de Lima, S.A.C. v. Municipalidad Metropolitana de Lima (MML)** (Ad hoc arbitration under UNCITRAL Rules, 2010). Concession contract relating to toll roads and toll collections in Lima, Peru. Testified at the World Bank in DC in Spanish in November 2019. Filed expert reports on damages in Spanish in April, August, and December 2019. Engaged by Respondent; Parties from Peru.
- **Alten Renewable Energy Investments, B.V and Alten Renewable Energy Developments v. Kingdom of Spain** (SCC Case No. V 2015/036). Fair and equitable treatment matter under Energy Charter Treaty. Claims arising out of a series of energy reforms affecting the renewables sector. Filed co-expert report in August 2019. Engaged by Respondent; Parties from the Netherlands & Spain.

- **Valores Mundiales, S.L. and Consorcio Andino S.L. v. Bolivarian Republic of Venezuela** (ICSID Case No. ARB/13/11). Expropriation of two grain milling and distribution entities in Venezuela. Testified at the World Bank in DC in February 2016; Filed co-expert reports on damages in October and March 2015. Engaged by Respondent; Parties from Spain & Venezuela.

International Arbitration

- **ITOCHU Corporation v. Kingdom of Spain** (ICSID Case No. ARB/18/25). Fair and equitable treatment matter under Energy Charter Treaty. Dispute involving energy reforms affecting renewable energy generation. Firm engaged by Respondent; Parties from Japan & Spain.
- **Infinito Gold Ltd. v. Republic of Costa Rica** (ICSID Case No. ARB/14/5). Expropriation relating to an exploration/development stage gold mining project in Costa Rica. Firm engaged by Respondent; Parties from Canada & Costa Rica.
- **Eoltec Energy, S.L. and Corporación Montealto XXI, S.L. v. ContourGlobal Latam, S.A** (ICC Case No. 21070/ASM). Breach of contract relating to the funding and operations of a wind farm in Peru. Firm engaged by Respondent; Parties from Spain & Colombia.
- **Emergofin B.V. and Velbay Holdings Ltd. v. Ukraine** (ICSID Case No. ARB/16/35). Expropriation involving an aluminum production plant which alleged inequitable treatment due to electricity prices regulated by the Government of Ukraine. Firm engaged by Claimant; Parties from Netherlands, Cyprus & Ukraine.
- **Michael Ballantine and Lisa Ballantine v. The Dominican Republic** (UNCITRAL and DR-CAFTA). Expropriation involving real estate development (hotel/resort) in the Dominican Republic. Firm engaged by Respondent; Parties from US & Dominican Republic.
- **Ferrocarriles del Norte de Colombia S.A. (“FENOCO”) v. Drummond Coal Mining LLC, Drummond Ltd., et al.** (ICC Case No. 19576/CA/ASM). Breach of contract involving a coal mining operation in Colombia with claims relating to the rail transport of the coal and issues at the port. Firm engaged by Claimant; Parties from Colombia & US.
- **Quadrant Pacific Growth Fund L.P. and Canasco Holdings Inc. v. Republic of Costa Rica** (ICSID Case No. ARB(AF)/08/1). Real estate investment by Canadian investors in Costa Rica. Filed two expert reports in 2009 in both English and Spanish related to the quantification of damages. Engaged by Respondent; Parties from Canada & Costa Rica.
- **Güneş Tekstil Konfeksiyon Sanayi ve Ticaret Limited Şirketi, Vahit Güneş, Reşat Güneş, Fikret Güneş, İbrahim Eksilmez, and Yücel Yıldız v. Republic of Uzbekistan** (ICSID Case No. ARB/13/19). Expropriation involving a real estate, retail and wholesale trade, and light manufacturing company in Uzbekistan. Firm engaged by Respondent; Parties from Turkey & Uzbekistan.
- **Vladislav Kim and Others v. Republic of Uzbekistan** (ICSID Case No. ARB/13/6). Expropriation involving two cement plants in Uzbekistan. Firm engaged by Respondent; Parties from Kazakhstan & Uzbekistan.
- **David R. Aven, et al v. Republic of Costa Rica** (PCA Case No. UNCT/15/3). Expropriation involving an investment in a planned real estate development (hotel/resort) in Costa Rica. Firm engaged by Respondent; Parties from US & Costa Rica.
- **Horthel Systems B.V., Tesa Beheer B.V and Poland Gaming Holding B.V. v. Republic of Poland** (PCA Case No. 2014-31). Expropriation relating to an investment treaty dispute in the gambling industry in Poland. Firm engaged by Respondent; Parties from Netherlands & Poland.
- **Cem Cengiz Uzan v. Republic of Turkey** (SCC Case No. V 2014/023). Expropriation of two electricity generation, transmission, and distribution companies operating under concession contracts in Turkey. Firm engaged by Respondent; Parties from England & Turkey.
- **Tenaris S.A. and Talta – Trading e Marketing Sociedade Unipessoal Lda. v. Bolivarian Republic of Venezuela** (ICSID Case No. ARB/12/23). Expropriation of a seamless pipe production plant and a hot briquette iron (HBI) plant in Venezuela. Firm engaged by Respondent; Parties from Luxembourg, Portugal & Venezuela.

- **Crystallex International Corporation v. Bolivarian Republic of Venezuela** (ICSID Case No. ARB/11/2). Expropriation of a gold mining concession in Venezuela. Firm engaged by Respondent; Parties from Canada & Venezuela.
- **Oxus Gold plc v. Republic of Uzbekistan** (UNCITRAL Arbitration). Expropriation of a gold mine in Uzbekistan. Firm engaged by Respondent; Parties from England & Uzbekistan.
- **Tenaris S.A. and Talta – Trading e Marketing Sociedade Unipessoal Lda. v. Bolivarian Republic of Venezuela** (ICSID Case No. ARB/11/26). Expropriation of a hot briquetted iron plant in Venezuela. Firm engaged by Respondent; Parties from Luxembourg, Portugal & Venezuela.
- **Supervisión y Control S.A. v. Republic of Costa Rica** (ICSID Case No. ARB/12/4). Breach of contract relating to the tariffs for vehicle inspection services in Costa Rica. Firm engaged by Respondent; Parties from Spain & Costa Rica.
- **Highbury International AVV and Ramstein Trading Inc. v. Bolivarian Republic of Venezuela** (ICSID Case No. ARB/11/1). Expropriation of gold and diamond mining concessions in Venezuela. Firm engaged by Respondent; Parties from Netherlands & Venezuela.
- **Vannessa Ventures Ltd. v. Bolivarian Republic of Venezuela** (ICSID Case No. ARB(AF)/04/6). Expropriation of a gold mine in Venezuela. Firm engaged by Respondent; Parties from Canada & Venezuela.
- **MMX Corumbá Mineração LTDA and MMX Trade & Shipping LLC v. Ereğli Demir Ve Çelik Fabrikalari** (ICC Case No. 16056/VRO). Breach of contract involving an iron ore supply contract. Firm engaged by Claimant; Parties from Brazil & Turkey.

U.S. Domestic Arbitration & Litigation

- **Ad Astra Recovery Services, Inc. v. John Clifford Heath, Esq., Lexington Law Firm, et al** (U.S. District Court for the District of Kansas – Wichita, Case No. 6:18-cv-01145-JWB-KGS). Racketeer Influenced and Corrupt Organizations (RICO). Refuted damages based on the management of claims in the bill collection industry. Firm engaged by Defendants.
- **Profit Investment Management, LLC and Eugene R. Profit v. Michelle Profit, Dr. Joseph Quash, and Dr. Thomas Pinder** (Montgomery County Circuit Court, Maryland, Case No. 430677-V). Negligence. Calculated damages for a dispute relating to an asset management business. Firm engaged by Plaintiff.
- **PSM Holding Corp v. National Farm Financial Corporation et. al.** (U.S. District Court for the Central District of California, Case No. CV 05-8891 MMM (FMOx)). Breach of Contract; Fraud. Dispute involving claims for restitution relating to an insurance company that was improperly transferred and later returned to the original owner. Firm engaged as court appointed expert.
- Calculated the balances in funds withheld accounts and reserve accounts for an insurance company involved in an arbitration regarding the reinsurance of certain blocks of business.
- Prepared an expert report concerning issues regarding damages sustained by an automotive part manufacturer in connection with alleged mismanagement and disregard of a shareholders' agreement related to one of their joint ventures.
- Rebutted an expert's calculation of damages for a services firm relating to the departure of key personnel and determined an alternate calculation of damages based on lost profits.
- Presented a summary of opinions regarding an award of profits between insurance parties that had been subject to a quota share agreement.
- Analyzed the solvency of an information services company involved in alleged anticompetitive conduct.
- Analyzed various opposing expert reports and calculated alternative damages, including expectation and equitable indemnity damages, for an international breach of contract matter.
- Analyzed and evaluated the accounting treatment of wholesale purchases and importation of gasoline and diesel fuel by a global energy and petrochemical company, and its subsequent sale to retailers.

- Developed product line financial statements to determine a pharmaceutical company's profitability by product and location for transactions involved in a multi-billion-dollar transfer pricing dispute with the Internal Revenue Service (IRS).
- Calculated commercial damages for a manufacturing company based on lost profits and reasonable royalties resulting from a copyright infringement and a trade secret misappropriation.
- Prepared restructured financial statements and forecasts using a detailed discounted cash flow model for a company involved in a litigation matter against its auditors.

Financial Investigations, Fraud, and Forensic Accounting

- Conducted an internal investigation regarding an alleged kickback scheme between the purchasing department of an automotive supplier company and its suppliers.
- Participated in an investigation regarding the misappropriation of personal and confidential information in relation to government contracts.
- Prepared consolidated and restated financial statements for a Fortune 500 company's foreign entity.
- Conducted a risk assessment of internal controls and procedures for trade spending in a Fortune 100 snack and beverage company.
- Reviewed and analyzed revenue recognition practices and internal control procedures for trade spending to provide guidance to the audit committee for a Fortune 100 company involved in a Securities and Exchange Commission (SEC) investigation.
- Performed a computer forensic investigation of employees accused of stealing proprietary company information.
- Investigated allegations of misconduct by the executive team of a consumer products company.

- Managed the claim reconciliation process for the real estate leasing business unit of a major telecom company in Chapter 11 bankruptcy.
- Analyzed enrollment data for an insurance litigation dispute regarding a \$20 million premium underpayment claim.
- Developed methodology for interest rate computations in the reconstruction of a multi-billion-dollar trust fund involved in a class action lawsuit.
- Created discounted cash flow models to dispute the opposing expert's financial report in a wrongful death litigation matter.

Consulting Engagements

- Prepared and co-signed various valuation reports used for negotiation and settlement purposes for nationalized telecom, electric, and oil & gas and jet fuel entities in Bolivia. Presented results to company management, the Bolivian Ministry of Finance, and the Bolivian Ministry of Legal Defense. Some of the cases settled and others proceeded to arbitration, including:
 - E.T.I. Euro Telecom International N.V. v. Plurinational State of Bolivia (ICSID Case No. ARB/07/28)
 - Pan American Energy LLC v. Plurinational State of Bolivia (ICSID Case No. ARB/10/8)
 - Guaracachi America, Inc. and Rurelec PLC v. Plurinational State of Bolivia (UNCITRAL, PCA Case No. 2011-17)

Publications

- **“Study of Damages in International Center for the Settlement of Investment Disputes Case”**, Transnational Dispute Management, June 2014. Performed research and analyzed data.
- **“Immigrant Use of Financial Services and Unmet Needs: An Updated Survey of Mexican Immigrants in Chicago”**, Appleseed Foundation, April 2015. Analyzed data for follow-up report.
- **“Immigrant Use of Financial Services and Unmet Needs: A Survey of Mexican Immigrants in Chicago”**, Appleseed Foundation, December 2008. Conducted surveys, analyzed data, and co-authored report.

Education & Languages

- Master of Business Administration, Finance and Strategy, Indiana University, Bloomington, IN.
- Bachelor of Science in Business Administration, Finance and Economics, Georgetown University, Washington, DC.
- Rebecca is a native Spanish speaker. She has authored reports, delivered presentations, and testified in Spanish.