

EDVA Judge Grants Rare Anti-Suit Injunction

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On May 17, in an apparent case of first impression in the Fourth Circuit, an Eastern District of Virginia (EDVA) judge granted an “anti-suit injunction,” barring a plaintiff from filing suit on a claim in any other jurisdiction throughout the world. [Sing Fuels PTE Ltd. v. M/V Lila Shanghai](#), 534 F.Supp.3d 551 (E.D. Va. 2023)

The underlying case involved a claim by Sing Fuels for nonpayment for a supply of fuel against M/V Lila Shanghai. Sing Fuels brought suit in the EDVA in 2020, seeking to satisfy the claim by seizing the defendant’s vessel, the Autumn Harvest. Judge Jackson entered summary judgment for the defendant on the grounds of lack of privity of contract, and the Fourth Circuit affirmed the judgment on appeal.

In late 2022, Sing Fuels sent a notice to M/V Lila Shanghai asserting the same claim for nonpayment, and stating that Sing Fuels would attempt to seize the Autumn Harvest once it entered a foreign jurisdiction more favorable to its claim.

M/V Lila Shanghai turned to the EDVA for a foreign anti-suit injunction barring Sing Fuels from commencing an action against the Autumn Harvest or the owners of the Autumn Harvest anywhere in the world. The court moved in its usual swift fashion, holding a hearing on M/V Lila Shanghai’s request less than two weeks after it was filed, and issuing an order granting the injunction the same day as the hearing.

In his ruling, Judge Jackson noted that the Fourth Circuit has not adopted a test for when a district court may impose a foreign anti-suit injunction. The judge also noted that there was a split in other circuits on how much weight to give to the effect of an injunction on international comity, but he ultimately did not need to resolve which approach to follow because he found that no issues of international comity were present.

Judge Jackson found that all the relevant factors favored enjoining Sing Fuels from filing a lawsuit in any foreign country. First, he found that the parties and issues were the same because Sing Fuels sought to seize the same ship for the same claims and even issued an identical demand letter to the defendant. Second, while an anti-suit injunction is not appropriate for all parallel proceedings in the U.S. and in a foreign country, Judge Jackson found that the sole purpose of Sing Fuels’ threatened litigation was to evade the judgment entered in the EDVA. Here, Sing Fuels waited to file a claim in a foreign jurisdiction until after the U.S. action was fully adjudicated and explicitly stated that it would continue to pursue the same claims based on the same arguments once it found a more favorable jurisdiction. Finally, Judge Jackson found that the case presented no issue of international comity because Sing Fuels had not yet commenced a foreign suit. Thus, the anti-suit injunction was purely defensive and

would not interfere with a foreign jurisdiction's judgment or policy.

While the factual situation in *Sing Fuels* was somewhat unique, as Judge Jackson noted, parallel proceedings in U.S. and foreign countries are common. Litigants in cases involving — or potentially involving — parallel proceedings in the U.S. and other countries need to be alert to the possibility that the victor in the first proceeding to conclude will seek an injunction barring a second proceeding in another country. While courts exercise the power to enter anti-suit injunctions sparingly, they can have a drastic effect on complex litigation, therefore it is important that litigants understand the parameters for obtaining such an injunction.

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