



## Kobre & Kim's Cross-Border Team



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# Kobre & Kim Scores Victory in US \$10+ Billion Award Enforcement Against Venezuela and PDVSA

**In Kobre & Kim's enforcement efforts against the Republic of Venezuela on behalf of its client ConocoPhillips - one of the world's largest international arbitration award enforcement campaigns - they recently obtained a significant victory in the U.S. Third Circuit Court of Appeals through the usage of the "alter ego" theory regarding the Delaware-based assets of a subsidiary of the sovereign's state-owned oil company, **Petróleos de Venezuela, S.A.****

Kobre & Kim currently represents ConocoPhillips in its efforts to enforce over US \$10 billion in judgments and arbitration awards against the Republic of Venezuela and related state-owned entities. This is one of the world's largest international arbitration award enforcement campaigns, stemming from awards and claims obtained in the International Centre for Settlement of Investment Disputes ("ICSID") and the International Chamber of Commerce ("ICC").

On December 5, the U.S. Third Circuit Court of Appeals upheld the ability of ConocoPhillips to enforce its US \$10.8 billion (plus interest) ICSID award against Venezuela. ConocoPhillips had used the "alter ego" theory, which establishes state-owned companies as the "alter ego" of a sovereign, to draw a line of ownership connecting Venezuela; its state-owned oil company, **Petróleos de Venezuela, S.A. ("PDVSA")**; and PDVSA's subsidiary PDV Holding, which indirectly owns the Texas-based oil refiner CITGO. The Court had previously granted ConocoPhillips the right to pursue the Delaware shares of PDV Holding based on their successful use of this theory.

Venezuela had argued that ConocoPhillips could not rely on an "alter ego" theory because doing so conflicted with positions that ConocoPhillips had taken in the underlying ICSID arbitration against Venezuela and positions taken by ConocoPhillips in a separate ICC

arbitration against PDVSA. In those arbitrations, Venezuela pointed out, ConocoPhillips had argued that Venezuela and PDVSA had separate liabilities for Venezuela's expropriation of ConocoPhillips' assets.

The Third Circuit dismissed Venezuela's arguments, determining that the "alter ego" theory did not conflict with ConocoPhillips' prior positions, and thereby cleared a path for ConocoPhillips to enforce a judgment recognizing the ICISD award against PDVSA's shares in its Delaware subsidiary. This is in addition to the attachments that ConocoPhillips already has through two judgments against PDVSA for over US \$2 billion.

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Investors and other parties should not be afraid to stand up to sovereign debtors with aggressive strategies. While every case is different, success comes down to aggressive litigation, creativity, identifying pressure points, and a relentless pursuit of outcomes. A mixture of these elements may increase claimants' chances of achieving an acceptable return.

This recent win follows a series of victories for the firm in 2024, including:

- Kobre & Kim Client Receives Favorable Ruling in Enforcement of Award Against Sovereign State
- Jury Awards Kobre & Kim Client US \$604.9 Million in Trade Secret Case
- Cross-Border Kobre & Kim Team Succeeds in Recovering Stolen Crypto Assets Worth Over US \$400 Million
- Kobre & Kim Successfully Enforces Hundreds of Millions of US Dollars of Cross-Border Judgments and Awards
- Kobre & Kim Wins London High Court Ruling After Korea's Challenge Against the Elliott Arbitral Award is Denied
- Kobre & Kim Clients Receive Favorable Ruling in Incora/Wesco Uptier Transaction
- New York Glory Health Decision Makes Enforcement of Bonds Issued by Cayman and BVI Companies Much Easier
- Precedent-Setting Win in Dubai Opens Doors for Global Creditors to Fight Fraudulent Conveyance in the Middle East
- Delaware Court Allows Claims Against AIG Over Credit Agreement to Proceed
- New York Court Opens Path for Global Bondholders to Bring Unilateral Claims Against Recalcitrant Bond Issuers
- New Pathways for International Creditors to Fight Fraudulent Conveyance in Dubai

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## About Kobre & Kim

Kobre & Kim is a conflict-free global law firm focused on disputes and investigations, often involving fraud and misconduct. The firm's team:

- Acts on behalf of creditors to monetize high-value judgments and arbitration awards, with most of our matters involving awards and judgments with face values of US \$100 million+ to several billion USD.
- Has extensive experience handling arbitration award and judgment enforcement matters against sovereign governments and related entities and understands the unique issues and opportunities in such enforcement campaigns.
- Through its integrated global team, is able to act in jurisdictions across North and South America, EMEA, Asia, and key offshore financial centers, strategically coordinating cross-border proceedings.