

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 16-30984

United States Court of Appeals
Fifth Circuit

FILED

October 17, 2018

Lyle W. Cayce
Clerk

STEMCOR USA INCORPORATED,

Plaintiff

v.

CIA SIDERURGICA DO PARA COSIPAR, ET AL.,

Defendants

DAWEOO INTERNATIONAL CORPORATION,

Plaintiff - Appellant

v.

THYSSENKRUPP MANNEX GMBH,

Intervenor Plaintiff - Appellee

v.

AMERICA METALS TRADING L.L.P., ET AL.,

Defendants

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:12-CV-2966

No. 16-30984

Before HIGGINBOTHAM, GRAVES, and HIGGINSON, Circuit Judges.

STEPHEN A. HIGGINSON, Circuit Judge:*

In *Stemcor USA Inc. v. Cia Siderurgica do Para Cosipar*, 870 F.3d 370, 372 (5th Cir. 2017), *opinion withdrawn and superseded on reh’g*, 895 F.3d 375 (5th Cir. 2018), we interpreted, inter alia, a matter of Louisiana law: whether the state non-resident attachment statute, La. Code Civ. Proc. art. 3542, allows for attachment in a suit to compel arbitration. A divided panel concluded that it does not, after reading the phrase “action for a money judgment” to exclude such a suit.

This narrow issue of state statutory interpretation has divided judges on our court. While we regret the time that has passed, the parties’ separate rehearing petitions have convinced us that the precise meaning of the phrase “action for a money judgment” under Louisiana’s non-resident attachment statute carries significant consequences for state and federal commercial law. We believe re-examination is needed. Because we conclude that Louisiana’s Supreme Court is the appropriate authority to resolve the matter, we exercise the certification privilege granted by Rule XII of the Rules of the Supreme Court of Louisiana.

I. STYLE OF THE CASE

The style of the case we certify is *Stemcor USA Inc. v. Cia Siderurgica do Para Cosipar, et al.*, No. 16-30984, on appeal from the United States District Court for the Eastern District of Louisiana, *Stemcor USA, Inc. v. Am. Metals Trading, LLP*, 199 F. Supp. 3d 1102, 1107 (E.D. La. 2016).

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

No. 16-30984

II. STATEMENT OF FACTS

The factual and procedural background of this case appears at *Stemcor USA Inc.*, 895 F.3d at 377-78.

III. QUESTION CERTIFIED

We hereby certify, on our own motion, the following determinative question of law to the Supreme Court of Louisiana:

Is a suit seeking to compel arbitration an “action for a money judgment” under Louisiana’s non-resident attachment statute, La. Code Civ. Proc. art. 3542?

IV. CONCLUSION

Should the Louisiana Supreme Court accept our request for an answer to this question, we disclaim any intent that the answer be confined to the precise form or scope of this certification. Any answer provided by the Louisiana Supreme Court will determine the issue on appeal in this case. Along with our certification, we transfer this case’s record and the appellate briefs.