

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

<p>OSTRIDER LIMITED, Petitioner/Plaintiff, v. PDVSA PETROLEO S.A., Respondent/Defendant.</p>	<p>C.A. No. 23-1405-LPS</p>
<p>UML BLANDFORD LIMITED, Petitioner/Plaintiff, v. PDVSA PETROLEO S.A., Respondent/Defendant.</p>	<p>C.A. No. 23-1406-LPS</p>
<p>UNION GLORY LIMITED, Petitioner/Plaintiff, v. PDVSA PETROLEO S.A., Respondent/Defendant.</p>	<p>C.A. No. 23-1407-LPS</p>

<p>CLION LIMITED, Petitioner/Plaintiff, v. PDVSA PETROLEO S.A., Respondent/Defendant.</p>	<p>C.A. No. 23-1408-LPS</p>
<p>CLION LIMITED, Petitioner/Plaintiff, v. PDVSA PETROLEO S.A., Respondent/Defendant.</p>	<p>C.A. No. 23-1409-LPS</p>

ORDER

WHEREAS, on December 7, 2023, Petitioner/Plaintiff in each of the above-captioned actions filed a Petition to Recognize, Confirm and Enforce Foreign Arbitration Award (“Petition”), seeking to confirm and recognize a foreign arbitral award and to enter a judgment against Respondent/Defendant PDVSA Petroleo S.A. (“PDVSA S.A.”). (*See, e.g.*, C.A. No. 23-1405 D.I. 1 at 1)¹

WHEREAS, on December 20, 2023, Petitioner/Plaintiff in each action filed a motion to expedite, seeking to expedite “consideration of the Petition, schedule a final hearing and render a decision confirming the awards as soon as the Court’s schedule permits.” (D.I. 5 at 2) In the motion to expedite, Petitioner/Plaintiff indicated that it had, via various means, served notice on

¹ All references to the docket index (“D.I.”) are to C.A. No. 23-1405, unless otherwise noted. Substantively identical documents have been filed in all five actions addressed in this Order.

PDVSA S.A. and its counsel in other proceedings. (D.I. 5 at 1 n.1)

WHEREAS, on December 26, 2023, the Court ordered that “the parties in each action shall meet and confer, and file a joint status report in each action by no later than January 2, 2024, providing their position(s) as to how these actions should proceed.” (D.I. 6)

WHEREAS, on December 26, 2023, Petitioner/Plaintiff in each action filed an affidavit of service relating to its Petition, stating that service of notice was completed between December 15 and December 21, 2023. (D.I. 7 at 3-4)

WHEREAS, on January 2, 2024, Petitioner/Plaintiff in each action filed a status report, indicating that it had “invited counsel for” Petróleos de Venezuela S.A. (“PDVSA”) and PDVSA S.A. “in related matters to have a meet and confer,” but “counsel did not respond to [the] request to meet and confer, other than with the non-responsive communications . . . that they did not represent PDVSA [S.A.]” in the above-captioned actions. (D.I. 8 at 1) Petitioner/Plaintiff noted that counsel had “appeared for both” PDVSA and PDVSA S.A. in at least three other actions. (*Id.* at 1-2)

WHEREAS, on January 4, 2024, Petitioner/Plaintiff in each action filed a “certification of no objection,” requesting that the Court grant the Petition as unopposed without further notice or hearing. (D.I. 9 at 3)

WHEREAS, as of this date, Respondent/Defendant has neither appeared in the above-captioned actions nor responded to the Petition or the motion to expedite.

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Petitioner/Plaintiff in each of the above-captioned actions (C.A. Nos. 23-1405, 23-1406, 23-1407, 23-1408, 23-1409) **SHALL** serve this Order on Respondent/Defendant in a manner consistent with Federal Rules of Civil Procedure and, by no later than **Tuesday, January**

9, 2024, file a proof of service.

2. Respondent/Defendant shall **SHOW CAUSE**, by filing a letter (not to exceed 3 pages) no later than **Friday, January 12, 2024**, as to why the Court should not grant the Petition to Recognize, Confirm and Enforce Foreign Arbitration Award (*see, e.g.*, C.A. No. 23-1405 D.I. 1) in each of the above-captioned actions as unopposed. Petitioner/Plaintiff may respond to Respondent/Defendant's letter by filing a letter (not to exceed 3 pages) no later than **Tuesday, January 16, 2024**. Respondent/Defendant may file a reply letter (not to exceed 2 pages) no later than **Wednesday, January 17, 2024**.

* * *

WHEREAS, on December 12, 2023, Petitioner/Plaintiff in each of the above-captioned actions filed a letter, appearing to be an Attached Judgment Statement, on the docket of *Crystallex International Corp., v. Bolivarian Republic of Venezuela* (the "*Crystallex Action*") (Misc. No. 17-151 D.I. 794, 795, 796, 797, 798). Petitioner/Plaintiff stated that the letter was filed "[i]n accordance with," among other things, "Special Master Pincus' letter dated August 7, 2023 (D.I. 652), [and] the Court's oral order of August 8, 2023 (D.I. 654)." (*E.g.*, Misc. No. 17-151 D.I. 794 at 1) The deadline for filing an Attached Judgment Statement, however, was August 14, 2023, nearly four months before Petitioner/Plaintiff's filing. (*See* Misc. No. 17-151 D.I. 652 at 2 ("Any Judgment Holder is hereby requested to file a statement, not to exceed five (5) pages in length, on the Court's docket by Monday, August 14, 2023."); *see also* Misc. No. 17-151 D.I. 803 at 2 (Special Master stating: "The UK Arbitration Creditors first received arbitration awards on April 13, 2023 and did not file their respective judgment statements until December 12, 2023 – approximately four (4) months after the deadline set in the Judgment Statement Letter.)) Petitioner/Plaintiff did not seek an extension to file its Attached Judgment Statement.

Its Attached Judgment Statement is plainly untimely.

WHEREAS, Petitioner/Plaintiff acknowledges that its arbitration awards are “against [PDVSA S.A.] not PDVSA (Petroleos de Venezuela, S.A.)” and, further, that in order to enforce these arbitration awards by attaching the assets of **PDVSA** it will need to “show the liability of [PDVSA] as alter ego and dominant and controlling party of, or an alter ego/agent of, [PDVSA S.A.]” (D.I. 8 at 3)

WHEREAS, Petitioner/Plaintiff suggested that since “the [Step 5] deadline in the *Crystallex* Proceeding only requires obtaining a **conditional** writ,” it would “file [its] application for a **conditional** writ of attachment in short order,” and assuming the conditional writ is granted “the parties [will] work in good faith to agree on a briefing schedule for the veil piercing issue.” (*Id.*) The “condition” referenced in the “conditional writ” requirement relied on by Petitioner/Plaintiff is “usually a condition outside the control of the Court or the creditor,” such as (and potentially **only**) sanctions imposed by the Office of Foreign Assets Control (“OFAC”). (Misc. No. 17-151 D.I. 646 at 6)

NOW, THEREFORE, IT IS FURTHER ORDERED that:

3. Petitioner/Plaintiff in each of the above-captioned actions shall **SHOW CAUSE**, by filing a letter (not to exceed 5 pages) no later than **Friday, January 12, 2024**, as to why the Court should not (a) strike its Attached Judgment Statement (Misc. No. 17-151 D.I. 794, 795, 796, 797, 798) as untimely filed, (b) deny its motion to expedite, given (i) the litigation (potentially lengthy) that will be necessary to determine whether to pierce the corporate veil between PDVSA S.A. and PDVSA and whether Petitioner/Plaintiff’s position as to the type of “condition” that may be associated with a “conditional writ” is correct, and (ii) Petitioner/Plaintiff’s failure to obtain a conditional writ of attachment by the Court’s deadline for

doing so. Respondent/Defendant may respond to Petitioner/Plaintiff's letter by filing a letter (not to exceed 5 pages) no later than **Tuesday, January 16, 2024**. Petitioner/Plaintiff may file a reply letter (not to exceed 3 pages) no later than **Wednesday, January 17, 2024**.

4. The Special Master appointed in the *Crystallex* Action may, if he wishes, be heard on any of the issues raised in this Order. If he chooses to do so, he must file a letter (not to exceed 5 pages) no later than **Wednesday, January 17, 2024**.

January 5, 2024
Wilmington, Delaware



HONORABLE LEONARD P. STARK
UNITED STATES DISTRICT COURT