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## Texas Judge Restores Oil And Gas Co.'s \$10.5M Arbitral Award

By **Tom Lotshaw**

Law360 (November 7, 2023, 9:16 PM EST) -- A Texas federal judge has reversed a tribunal's decision that reduced an oil and gas exploration company's \$10.5 million arbitral award against a British Virgin Islands company by \$4 million, ruling the reduction cannot be justified as a permissible correction of an error or miscalculation.

While acknowledging the narrow grounds for courts to review or disturb arbitration awards, U.S. District Judge Drew B. Tipton called the panel's decision to reduce RSM Production Corp.'s award "a textbook case" of reversing course on a legal decision under the guise of fixing an error.

"As courts that have explored the issue have made clear, this case involves modifications that far exceed clerical or computational errors," Judge Tipton said in a Monday opinion.

The panel had been called on to arbitrate accounting and contract disputes stemming from a natural gas venture between RSM and Gaz du Cameroun SA under International Chamber of Commerce rules. It initially awarded \$10.5 million to RSM, which had claimed Gaz du Cameroun improperly withheld project payments.

The panel agreed to a joint application seeking to correct two errors, which increased RSM's award by about \$47,000. However, Gaz du Cameroun separately filed a contested Rule 36 "Application to Correct Award and Address Omitted Claims," per the International Chamber of Commerce's arbitration rules. The filing by Gaz du Cameroun led the tribunal to find it had miscalculated the damages owed to RSM by about \$4 million.

Judge Tipton said the panel initially agreed that RSM was entitled to the full \$10.5 million it claimed Gaz du Cameroun owed it, and, "perhaps misleadingly," characterized the award as damages for just one of RSM's claims.

"RSM sought a payment of \$10,578,123.28 and that sum had three components. While the tribunal arguably titled RSM's bid for that sum as only one of those three components ... the substance of its decision expressly determined that RSM was entitled to recover on each of the three components that made up the \$10,578,123.28 award."

Gaz du Cameroun argued the tribunal awarded damages on claims not found in favor of RSM, but Judge Tipton called the characterization inconsistent with the award's substance.

RSM specifically broke down each of the three components that made up its \$10.5 million request, and the tribunal unmistakably determined RSM was entitled to each of those components, according to the judge.

"The tribunal effectively reversed that determination in the addendum award by holding that RSM was not entitled to those damages," Judge Tipton said. "The original award had no 'evident material miscalculations of figures,' and the tribunal plain redetermined a substantive issue of law. The court therefore finds that the tribunal exceeded its authority by modifying the award in a way forbidden by the plain text of the agreement."

RSM lodged its suit challenging the arbitration panel's decision in **October 2022**, arguing the panel exceeded its authority to correct computational errors under the Federal Arbitration Act. In August, Judge Tipton **denied** Gaz du Cameroun's motion to dismiss the challenge for **lack of jurisdiction**, holding that the two companies had agreed to arbitrate in the Lone Star State under contracts governed by its laws.

Representatives for the parties could not immediately be reached for comment Tuesday.

RSM Production Corp. is represented by Aaron M. Streett, Anthony J. Lucisano and Elisabeth C. Butler of Baker Botts LLP and Meghan Dawson McElvy and Dustin Appel of Bradley Arant Boult Cummings LLP.

Gaz du Cameroun SA is represented by John F. Shepherd and Maureen R. Witt of Holland & Hart LLP.

The case is RSM Production Corp. v. Gaz du Cameroun SA, case number 4:22-cv-03611, in the U.S. District Court for the Southern District of Texas.

--Additional reporting by Madeline Lyskawa and Caroline Simson. Editing by Drashti Mehta.

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