United States Court of Appeals for the Fifth Circuit

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Fifth Circuit
FILED
September 3, 2026
Lyle W. Cayce
Clerk

No. 25-30372

Transportation Consultants, Incorporated, *doing business as* TCI Trucking,

Plaintiff—Appellee,

versus

Certain Underwriters at Lloyd's, London, Severally subscribing to Certificate No. AMR-36854-07; Indian Harbor Insurance Company; QBE Specialty Insurance Company; Steadfast Insurance Company; General Security Indemnity Company of Arizona; United Specialty Insurance Company; Lexington Insurance Company; HDI Global Specialty SE; Old Republic Union Insurance Company; GeoVera Specialty Insurance Company; Transverse Specialty Insurance Company,

Defendants—Appellants.

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:23-CV-6585

Before Stewart, Higginson, and Ho, *Circuit Judges*.

Stephen A. Higginson, *Circuit Judge*:

This is one of many insurance disputes following Hurricane Ida, which struck Louisiana five years ago. The parties agree that our recent decision in

Crescent City Surgical Operating Co. v. Interstate Fire & Casualty Co. controls, if we are persuaded by that unpublished opinion. We are and accordingly AFFIRM in part, VACATE in part, and REMAND for further proceedings consistent with this opinion.

I.

Plaintiff Transportation Consultants, Inc. owns property in Louisiana, insured by a surplus lines commercial property insurance policy with Defendants—nine domestic insurers and two foreign insurers (together, "the Insurers"). The policy includes an arbitration clause providing that "all matters in difference between [Transportation Consultants] and the [Insurers] . . . in relation to this insurance . . . shall be referred to an Arbitration Tribunal." It also includes a Contract Allocation Endorsement, which provides, "This contract shall be constructed as a separate contract between the Insured and each of the Underwriters."

After a coverage dispute, Transportation Consultants sued all eleven Insurers in Louisiana state court. The Insurers removed the case to the Eastern District of Louisiana, invoking federal question jurisdiction under the Convention on the Recognition and Enforcement of Foreign Arbitral Awards ("the Convention") and related statutory provisions. *See* Convention on the Recognition and Enforcement of Foreign Arbitral Awards, June 10, 1958, 330 U.N.T.S. 3; 9 U.S.C. §§ 201–05.

Once in federal court, the Insurers moved to compel arbitration and stay the litigation. The district court granted the motion, finding that the Convention required arbitration against all Insurers. Following the Louisiana Supreme Court's intervening decision in *Police Jury of Calcasieu Parish v. Indian Harbor Insurance Co.*, 2024-00449 (La. 10/35/24), 395 So. 3d 717, Transportation Consultants moved for reconsideration. The district court granted that motion. Applying *Police Jury*, the district court reversed the portion of its order compelling Transportation Consultants to arbitrate with the domestic insurers and lifted the stay of litigation against the domestic insurers. The order compelling arbitration with the foreign insurers and staying the litigation against them remained. The Insurers timely appealed, asking us to compel arbitration against the domestic insurers as well, or at least to stay the litigation against the domestic insurers, pending resolution of the arbitration against the foreign insurers.

II.

We review the denial of a motion to compel arbitration and to stay proceedings pending arbitration *de novo*. *Auto Parts Mfg. Miss., Inc. v. King Constr. of Hou., L.L.C.*, 782 F.3d 186, 196 (5th Cir. 2015). "We review for abuse of discretion a district court's determination of whether equitable estoppel may be invoked to compel arbitration." *Id.*

III.

A series of recent decisions tells us how to manage this dispute. First, in *Police Jury*, the Louisiana Supreme Court held that a Louisiana statute prohibits arbitration clauses in insurance contracts, and equitable estoppel cannot be used to circumvent that statute and mandate arbitration of insurance disputes. 395 So. 3d at 722, 725, 730; *see also* La. Rev. Stat. Ann. § 22.868 (2020). However, our court has long recognized that the Convention, which confers federal jurisdiction over agreements in its purview, supersedes this Louisiana law when a foreign insurer is a party to the agreement. *See Safety Nat'l Cas. Corp. v. Certain Underwriters at Lloyd's London*, 587 F.3d 714, 725 (5th Cir. 2009) (en banc). Under the Convention, a district court must order arbitration if four conditions are met: "(1) there is an agreement in writing to arbitrate the dispute, (2) the agreement provides for arbitration in the territory of a Convention signatory, (3) the agreement arises out of a commercial legal relationship, and (4) a party to the agreement is not an American citizen." *Francisco v. Stolt Achievement MT*, 293 F.3d 270, 273 (5th Cir. 2002). Taken together with *Policy Jury*, this means that insurance disputes between domestic entities will proceed through litigation under Louisiana law, but disputes with foreign insurers will proceed through arbitration under the Convention.

A year after *Police Jury*, and six months after the district court's last order in this case, we decided *Town of Vinton v. Indian Harbor Insurance Co.*, 161 F.4th 282 (5th Cir. 2025). There, we interpreted a materially identical insurance policy with several foreign and domestic insurance companies. *Id.* at 286. Like the contract here, the policy had an arbitration clause covering "[a]ll matters in difference between the Insured and the Companies" and an endorsement providing that "this contract shall be constructed as a separate contract between the Insured and each of the Underwriters." *Id.* at 286–87 (cleaned up). The foreign insurers were dismissed from the case before the appeal, but the remaining domestic insurers argued that they must proceed to arbitration under the Convention as well. *Id.* We disagreed.

Only the Convention's fourth prerequisite was at issue: whether a party to the agreement was not an American citizen. *Id.* at 287. To answer that question, we first had to decide "whether the arbitration agreement" was between the insured "and all ten insurers collectively, or between [the insured] and each insurer separately." *Id.* Based on the policy's text requiring that it be construed as several individual bilateral agreements between the insured and each insurer, we concluded that the policy contained separate agreements. *Id.* Thus, we held that the agreements with the domestic insurers did not fall under the Convention. *Id.* Applying *Police Jury*, we further held that arbitration was not available under Louisiana law and that we could not use equitable estoppel to compel arbitration.[1] *Id.* at 288.

Then, earlier this year, we decided *Crescent City Surgical Operating Co. v. Interstate Fire & Casualty Co.*, No. 25-30044, 2026 WL 1091579 (5th Cir. Apr. 22, 2026) (per curiam). In *Crescent City*, we applied *Town of Vinton* to another policy with substantially the same arbitration and endorsement clauses, where the foreign insurers *remained* parties to the case—as they do here. *Id.* at *1. There, all insurers moved to compel arbitration, and the district court originally granted the motion and stayed litigation. *Id.* at *2. The insured then later moved to stay arbitration and lift the stay on litigation. *Id.* Relying on *Town of Vinton*, the district court granted the motion as to the domestic insurers, finding that Louisiana law voiding arbitration clauses in insurance contracts governed their contracts with the insured, and declined to stay the litigation against them. *Id.* For the foreign insurers, the district court kept intact its prior ruling that the Convention required arbitration against them. *Id.* We affirmed the district court's substantive decisions as to the domestic insurers, holding that under *Town of Vinton* and *Police Jury*, Louisiana statutory law forecloses application of arbitration clauses in insurance contracts, and equitable estoppel "cannot provide a workaround for the Insurers" to get to arbitration. *Id.* at *4–5.

However, we separately held that the district court abused its discretion in declining to stay litigation against the domestic insurers during arbitration against the foreign insurers. *Id.* at *5. Specifically, we determined that the district court erred in its application of the *Rainier* factors—also called the *Waste Management* factors. *Id.* at *5 (citing *Rainier DSC 1, L.L.C.*

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[1] The Insurers argue that *Town of Vinton* was wrongly decided, both in its interpretation of the policy and its equitable estoppel analysis. But they raise this issue solely to preserve it for further review, so we do not address it here.

v. Rainier Cap. Mgmt., L.P., 828 F.3d 356, 360 (5th Cir. 2016) (per curiam)); *see also Waste Mgmt., Inc. v. Residuos Industriales Multiquim, S.A. de C.V.*, 372 F.3d 339, 343 (5th Cir. 2004). In *Rainier*, we noted that while Section 3 of the Federal Arbitration Act ("FAA") compels a court to stay the proceedings before it, pending arbitration subject to the FAA, that section generally "only applies to parties to an agreement containing an arbitration clause." 828 F.3d at 360. Applying *Waste Management*, however, we explained that Section 3 applies to non-signatories "where (1) the arbitrated and litigated disputes involve the same operative facts; (2) the claims asserted in the arbitration and litigation are 'inherently inseparable'; and (3) the litigation has a 'critical impact' on the arbitration." *Id.* (quoting *Waste Mgmt.*, 372 F.3d at 341). Under *Town of Vinton*, in contracts like the ones at issue in *Crescent City* and in the present case, the domestic insurers are non-signatories to the enforceable arbitration agreements between the insured and the foreign insurers, bringing these factors into play.

Using these factors in *Crescent City*, we first found that the claims against the foreign insurers in arbitration and against the domestic insurers in litigation arose "from the 'same operative facts' under the Policy, which, though construed as a separate contract between Crescent City and each insurer, still is a unified insurance agreement with the aim of providing Crescent City a seamless level of coverage." 2026 WL 1091579, at *5. With that arrangement, we next deemed "the claims against each insurer 'inherently inseparable.'" *Id.* Finally, "given that both proceedings involve[d] the same coverage questions and the same facts," we concluded that the litigation would "have a critical impact on the arbitration." *Id.* Accordingly, we remanded with instructions for the district court to stay proceedings against the domestic insurers until resolution of arbitration against the foreign insurers. *Id.* at *5–6.

IV.

Given the significant legal and factual overlap, the parties agree that the analysis in *Crescent City* applies to this case. But they diverge on the relevant takeaway. Transportation Consultants argues only that we should apply *Crescent City*'s two *Town of Vinton* holdings. Transportation Consultants asks us to hold (1) that the arbitration provisions in its contracts with the domestic insurers are invalid under Louisiana law, and (2) that the Insurers cannot use equitable estoppel to compel arbitration. The Insurers admit that if we are convinced by our unpublished opinion in *Crescent City*, it is dispositive on those two issues. But the Insurers instead ask us to look to *Crescent City*'s final holding: that litigation against domestic insurers should be stayed pending arbitration with the foreign insurers concerning the same policy. Transportation Consultants does not address *Crescent City*'s stay discussion in its brief.

We agree with *Crescent City*'s substantive analysis, applying our binding precedent from *Town of Vinton*. As the parties' policy instructs, we read it as containing separate agreements between Transportation Consultants and each Insurer. Louisiana law governs the policy's contracts between Transportation Consultants and the domestic insurers and prohibits enforcement of the arbitration agreements in those contracts. *Id.* at *4 (citing *Town of Vinton*, 161 F.4th at 286). The Insurers cannot use equitable estoppel to avoid that positive law. *Id.* at *5 (citing *Town of Vinton*, 161 F.4th at 288). Therefore, the district court's order denying the Insurers' motion to compel arbitration against the domestic insurers is AFFIRMED.

Next, we REMAND for the district court to reconsider whether a stay of litigation against the domestic insurers is appropriate. In *Crescent City*, we reached the issue after the district court had applied the *Waste Management* factors. *Id.* In this case, when the district court lifted the stay of litigation between Transportation Consultants and the domestic insurers, our law in this area was far less developed—lacking *Town of Vinton* and *Crescent City*—and the parties had not briefed any stay factors.[2] Before us, the Insurers (through no fault of their own) only seek to invoke *Crescent City*'s stay analysis (issued after their opening brief was filed) in their reply brief. Transportation Consultants did not address the stay factors in their brief and did not seek leave to file supplemental briefing on the issue. Thus, the district court, with the benefit of full, updated briefing on a stay, will be best equipped to consider this issue in the first instance. As with any factor test, the district court's analysis will be context- and fact-specific.

V.

We AFFIRM the district court's judgment compelling the foreign insurers to arbitrate. We VACATE the district court's order lifting the stay as to the domestic insurers, and we REMAND for further proceedings consistent with this opinion.

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[2] Neither party contests that the *Waste Management* factors provide the appropriate framework for considering a stay here. Indeed, the Insurers ask us to apply them, contending that they weigh in their favor. Notably, the FAA works as a gap-filler for the Convention, so "parties whose arbitration agreements fall under the Convention have had to seek authority for stays under 9 U.S.C. § 3, a provision of the domestic FAA." *Todd v. Steamship Mut. Underwriting Ass'n (Berm.) Ltd.*, 601 F.3d 329, 332 (5th Cir. 2010). At least where, as here, the foreign insurers remain parties to the case and are subject to the Convention and its related FAA stay provisions, we find it logical to use these factors when deciding whether to stay the domestic insurers' related litigation.