

## Florida court upholds aircraft leasing award

Published 3 March 2010

Panama-based aircraft leasing company AeroCentro has won a US\$3 million arbitral award after its Venezuelan-owned client, Aeropostal Alas de Centro America, was found to have breached the terms of two aircraft leases.

On 1 March, a Florida court confirmed the award made by a Miami arbitration forum under American Arbitration Association rules in November last year.

Gary Davidson, a partner with Diaz Reus & Targ LLP who led the counsel to AeroCentro, says, "The primary challenge was to convince the arbitrator that he had jurisdiction to hear the case against the parent company of a defunct subsidiary. The ruling validates the notion that arbitrators have the power to determine their own jurisdiction."

AeroCentro and Alas de Centro America signed the leasing contract for two aircraft in 2006, but Alas de Centro America failed to take possession of the aircraft, leading AeroCentro to file for arbitration in 2007.

In its arbitral filing, the company argued that Alas de Centro America was liable for the losses it had sustained under the aircraft leases.

Alas de Centro America, by then defunct, failed to appear at the arbitration however, and its parent company, Aeropostal Alas de Venezuela contested the tribunal's jurisdiction to hear a claim against it, arguing that it had not been a party to the lease.

Davidson says, "Keeping Aeropostal Alas de Venezuela in the arbitration was key. We knew that Aeropostal Alas de Centro was no longer operational and had no assets. If we couldn't keep Aeropostal Alas de Venezuela in the arbitration, any award would have simply been a pyrrhic victory."

Having secured the arbitration ruling, AeroCentro's counsel immediately sought confirmation of the award from a Florida district court, which ruled that "As the arbitrator did not exceed his authority or make a finding in manifest disregard of the law, the final award must stand."

"More importantly, respondents have not asserted any defence to confirmation," it added.

### **Counsel to AeroCentro**

- Diaz Reus & Targ LLP

Partner Gary Davidson and associates Gerardo Rodriguez-Albizu and Chad Purdie

### **Counsel to Aeropostal Alas de Venezuela**

- Polo Alto Associates

Partner Ricardo Pines

*DT*