

## SCOTUS Opinion: Court Declines to Preclude Nonsignatories from Being Able to Enforce Arbitration Provision

2 Jun 2020

At the heart of *GE Energy Power Conversion France SAS, Corp. v. Outokumpu Stainless USA, LLC* is a construction contract with an arbitration clause. One of the signatories to that contract engaged a subcontractor to do part of that construction. When the subcontractor's work allegedly failed, the owner sued the subcontractor. The subcontractor moved to dismiss the case and compel arbitration under the original contract's arbitration clause, which the subcontractor never signed. The district court granted the motion, but the Eleventh Circuit reversed, holding that the Convention on the Recognition and Enforcement of Foreign Arbitral Awards precluded enforcement of an arbitration clause by a party that did not sign the agreement.

The Court, in a unanimous opinion by Justice Thomas, reversed, holding that the Convention was silent on enforcement by nonsignatories, and thus it did not conflict with common law equitable estoppel doctrines that permit such enforcement. The case was then remanded for consideration of how those estoppel principles affected the subcontractor's request. Justice Sotomayor filed a concurring opinion arguing that the application of the estoppel doctrine "must be rooted in the principle of consent to arbitrate."

A link to the opinion is here: [https://www.supremecourt.gov/opinions/19pdf/18-1048\\_8ok0.pdf](https://www.supremecourt.gov/opinions/19pdf/18-1048_8ok0.pdf)

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**TAGGED:** scotus, GE Energy Power Conversion France SAS Corp. v. Outokumpu Stainless USA LLC, Convention on the Recognition and Enforcement of Foreign Arbitral Awards, equitable estoppel