

MVP: Gibson Dunn's Rahim Moloo

By Joyce Hanson

Law360 (October 29, 2020, 3:14 PM EDT) -- Gibson Dunn & Crutcher LLP's Rahim Moloo leads a team that won one of the largest enforcement victories ever against a sovereign debtor, at \$1.4 billion, for gold mining company Crystallex International Corp. in its dispute with Venezuela, landing him a spot among Law360's 2020 International Arbitration MVPs.

HIS BIGGEST ACCOMPLISHMENT THIS YEAR:

Moloo, a New York-based partner, and the Gibson Dunn team persuaded the Third Circuit in 2019 that *Petróleos de Venezuela SA* is the country's alter ego, paving the way for Canada-based Crystallex to seize shares in PDVSA, which is U.S. refiner Citgo's parent company, to satisfy Crystallex's \$1.4 billion judgment. Crystallex won the massive award after being ousted by a previous Venezuelan administration from a lucrative gold mining project.

In February 2020, Venezuela asked the U.S. Supreme Court to review the circuit court's decision, but on May 18 the high court denied the request. On May 22, U.S. District Judge Leonard P. Stark of Delaware lifted a stay imposed on a writ of attachment against the Venezuelan oil company, which allows Crystallex to sell PDVSA's shares in Delaware corporation PDV Holding Inc.

"The Crystallex case is really the most significant achievement that we've had over the past year," Moloo said. "We were successful in proving that those shares were in fact the assets of Venezuela and that we can attach those shares. We're now back in front of Judge Stark to discuss the next steps as we try to sell these shares to satisfy our client's judgment."

HIS PROUDEST MOMENT THIS YEAR:

The Supreme Court's May 18 denial of Venezuela's petition for certiorari stands out as Moloo's proudest moment so far in 2020, he said.

"That was a significant achievement. That was a great day," he said. "But to be honest, I'm also really proud of our team of folks who have built this group over the last six years. Having their contributions



recognized is really important to me."

The Gibson Dunn team was placed among Law360's 2019 International Arbitration Groups of the Year after it helped to secure the landmark Third Circuit decision in July 2019 favoring Crystallex. That victory followed a February 2019 D.C. Circuit decision that affirmed a ruling enforcing the \$1.4 billion arbitral award.

ANOTHER NOTABLE CASE:

Moloo and his team also represent Exelon Corp. in a billion-dollar case against Électricité de France SA, French state-owned company, over the sale of three nuclear power plants, winning an early victory on June 12 in a rare International Chamber of Commerce procedure before a pre-arbitral referee.

"The ICC arbitration rules are probably one of the most common set of arbitration rules, but these pre-arbitral referee rules are rare," Moloo said, adding that the dispute involved EDF's exercise of a put right to sell the three nuclear power plants in New York and Maryland to Exelon.

There was no real precedent in the ICC procedure, Moloo said, so he was faced with the challenge of basing his argument on the text of the pre-arbitral referee rules, with the Exelon-EDF dispute only the 17th case brought under those rules.

"Usually, it is when there is more than one tenable interpretation of a set of rules or contractual provisions that you land in front of arbitrators," Moloo said. "In those circumstances, it's much easier to argue from precedent because you can say, 'Well look, others have done this the same way.' When there is no precedent, you are really left with the words on the page and you can't use that crutch of precedent. That's when it's more challenging, but also more fun."

WHY HE'S AN INTERNATIONAL ARBITRATION ATTORNEY:

Moloo, who is Canadian, worked at a law firm in Canada in his home city of Calgary after receiving a bachelor of laws degree from the University of British Columbia. One of the partners at the Calgary firm asked him to help out on some international arbitration matters, which piqued Moloo's interest in the field.

He then earned a master of laws degree at New York University and decided to stay in New York when he realized that the city was a place where he could practice in an international setting and sharpen his oral advocacy skills.

"Sometimes serendipity lands you where you are," he said. "It's a combination of a bit of luck and what my interests were. I was always interested in international affairs and involved in debating and public speaking. It was a combination of those things that landed me on a path toward international arbitration at a time when I didn't even know I was on that path."

WHAT MOTIVATES HIM:

To be sure, the desire to win drives Moloo in his legal practice. But so does his interest in complex international disputes where each case takes on its own life, with its own team, different counsel on the other side, different arbitration tribunals in different parts of world, and different languages where local laws that apply.

"There is so much variety in international arbitration, but at its core you're tasked with convincing a panel of three people that your client's position is the right one," he said. "The passion for wanting to

both win and advocate on behalf of your clients are what motivate me."

HIS ADVICE FOR JUNIOR ATTORNEYS:

Persistence is key for junior attorneys who want to play the long game in an international arbitration career, according to Moloo. There are no shortcuts, he said, especially in the practice of law.

"It's a profession where attention to detail matters," Moloo said. "Knowing the facts matters. Understanding the law matters. Even when you're giving strategic advice, it's not advice in a vacuum. You have to do the hard work of reading the documents, understanding the applicable law and really getting to know the client's business. You have to put in the time."

— *As told to Joyce Hanson*

Law360's MVPs are attorneys who have distinguished themselves from their peers over the past year through high-stakes litigation, record-breaking deals and complex global matters. A team of Law360 editors selected the 2020 MVP winners after reviewing more than 900 submissions.