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# Hughes Hubbard & Reed

## Hughes Hubbard Serves Sweet Resolution of Pineapple Case for TicoFrut

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**December 15, 2017** — The firm led TicoFrut S.A. to a successful resolution of its dispute with Fresh Del Monte Produce Inc. over allegations that the Costa Rican juice company interfered with a contract between the fruit giant and one of its pineapple suppliers.

On Oct. 27, TicoFrut reached a settlement with Del Monte, which agreed to drop its suit against TicoFrut. The settlement came after U.S. District Judge Jose E. Martinez created new law by upholding HHR's expansive federal court removal theory for TicoFrut.

Inprosta, one of Costa Rica's biggest pineapple growers, grew a nonpatented crop known as MD-2 for Del Monte as part of an exclusive sales agreement that began in 2001 and lapsed in 2013. In June 2016, a divided ICC arbitral panel ruled that Inprosta violated its contract with Del Monte by continuing to grow MD-2 instead of returning its crops and seeds to Del Monte. The panel ordered Inprosta to pay Del Monte \$32 million and sell all pineapples to Del Monte or destroy its crops.

Del Monte sued TicoFrut a month later in Florida state court for buying pineapples from Inprosta and sought to garnish TicoFrut's debt to Inprosta to satisfy the award. HHR responded by removing the case to federal court and asking a judge to stay it while Inprosta challenged the award. HHR relied on a novel removal theory based on the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

Earlier this year, HHR won two rulings from a Florida federal magistrate judge rejecting Del Monte's bid to garnish TicoFrut's debt and block the company from buying pineapples from Inprosta. In May, a Florida federal judge confirmed the \$32 million award against Inprosta.

On Sept. 28, Judge Martinez held that TicoFrut properly removed Del Monte's action to federal court, given that the action, by relying on the arbitral award as the basis of the claims, "related to" an award "falling under the

Convention."

In a joint motion filed on Nov. 2, both sides agreed to end their dispute and have the case dismissed with prejudice.

TicoFrut, which includes a U.S. subsidiary that sells orange and pineapple juice, is part of the Pellas Group of Nicaragua, one of the largest conglomerates in Central America.

Ruben Diaz, Nick Swerdloff and Aviva Wernick lead the HHR team, which includes Jeff Goldberg, Ryan Kim, Gil Ben-Ezra and Margot Warhit.

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