

## **In Dispute Over Consolidation, California Federal Court Grants Petition to Compel Appointment of an Arbitrator in One of the Actions, and Denies Other Party's Motion to Compel the Appointment of a Single Panel to Decide Consolidation Issue**

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The background of this case in California federal court is that The Hartford ("Hartford") issued reinsurance billings to Employers Insurance Company of Wausau ("Wausau") for settlement payments made to one insured under nineteen different reinsurance treaties between Wausau and three of Hartford's affiliates, which billings were denied by Wausau. In response, Hartford demanded arbitration and requested that the parties consolidate all the related disputes in a single arbitration. Wausau, in response, proposed that the parties agree to three arbitrations and identified three arbitrators for three separate panels for each of the three Hartford affiliates involved. Hartford refused and identified one arbitrator for a single arbitration and if other arbitrations were necessary, the same arbitrator was identified as arbitrator for such other arbitrations. Wausau's arbitrators then requested that Hartford's arbitrator select umpires for three separate arbitrations. In response, Hartford again requested that the parties agree to a methodology to select a single panel to decide how the matter should be consolidated. Wausau then filed four separate petitions in three jurisdictions to compel arbitration: one in California federal court, two in Massachusetts state court and one in Connecticut state court. In the California action, which involved one treaty, Hartford cross-moved to compel a single arbitration in order to adjudicate the parties' dispute regarding consolidation and, in the alternative, a motion to stay pending arbitration of related proceedings.

As an initial matter, the California federal court noted that the issue of whether arbitrations may be consolidated is a question for the arbitrators and not the court to decide. However, the court noted that the parties remained at an impasse due to Hartford's insistence of one consolidated arbitration. The court then rejected Hartford's argument that its three affiliates who had entered into the nineteen treaties could act as a single party for the purpose of seeking reimbursement from Wausau. Noting that it was limited to the terms of the agreements, the court stated that Hartford was only named in two of the nineteen treaties, that the treaties entered into by two of the affiliates required arbitration in Massachusetts and the others required arbitration in Los Angeles. The court also noted that each of the treaties was a separate agreement, with different arbitration clauses. The California federal court then found that the treaty before it contained an arbitration clause which provided a procedure for selecting an umpire, and that once that panel is in place, it can decide the issue of consolidation. Accordingly, the court granted Wausau's petition to compel appointment of an arbitrator, and denied

Hartford's motions to compel and stay pending arbitration of related proceedings.

[Employers Ins. Co. of Wausau v. The Hartford](#), No. 2:18-cv-07240 (USDC C.D. Cal. Dec. 3, 2018)

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