

Wiley Files Supreme Court *Amicus* Brief on Behalf of Law Professors and Scholars in Case Involving Proper Interpretation of a Treaty

URGES REVIEW OF CALIFORNIA SUPREME COURT DECISION ALLOWING PRIVATE PARTIES TO CONTRACT OUT OF THE HAGUE SERVICE CONVENTION

September 24, 2020

Washington, DC - Wiley filed a brief with the U. S. Supreme Court on behalf of *amici curiae*, a group of U.S. law professors and scholars who teach, research and write about international law, in *Changzhou SinoType Technology Co. v. Rockefeller Investments (Asia) VII*. The brief - which was filed with co-counsel Professor F. Andrew Hessick of the University of North Carolina School of Law and Jarred L. Hubbard of Fitch Law Partners, LLP, assisted by law student Rachel Grossman - urges the Court to grant the pending petition for a writ of *certiorari* in a case involving the proper interpretation of a treaty. The *amicus* brief argues that the California Supreme Court erred in interpreting the Hague Service Convention to allow private parties to agree to service through means other than those authorized by the Convention.

The Hague Service Convention regulates the service of legal documents in disputes between parties in different countries. It provides that a member State may prohibit service of process from parties in another country by mail and require that all service be directed through a central authority. Like many countries, China has exercised its right to require service through its central authority. The California Supreme Court decision held, nonetheless, that Rockefeller could serve process issued by a California state court on SinoType in China by Federal Express. The California Supreme Court reasoned that service by Federal Express was permissible because Rockefeller and SinoType had so agreed in a contractual memorandum of

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understanding.

Amici argue that the Supreme Court should grant *certiorari* because the California Supreme Court's decision is wrong and implicates a matter of particular importance to international commerce and foreign relations.

The brief states that the California Supreme Court's decision is wrong because the Convention provides the "exclusive" means for serving documents transmitted for service abroad. The California Supreme Court's erroneous interpretation of the Convention has major consequences. First, it is inconsistent with the status of treaties under the Supremacy Clause as the supreme law of the land. Second, it has the potential to cause needless friction between the United States and its treaty partners. Third, it undermines the uniformity and predictability that motivated the adoption of the Convention.

The brief concludes: "Respect for international law and our country's treaty partners demand compliance with treaty obligations. The United States is entitled to demand that other countries strictly honor its sovereign rights under international law. To do so with any moral or practical authority, the United States must likewise strictly adhere to its treaty obligations."

Wiley partner Richard A. Simpson is counsel of record for the firm's pro bono representation of the amici on this brief. Wiley special counsel Joseph W. Gross also participated in drafting the brief.

The brief can be read [here](#).