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Chiquita Wins \$5.7M In Dispute With Banana Exporter

By **Caroline Simson**

Law360 (June 30, 2021, 4:34 PM EDT) -- Chiquita Brands has won more than \$5.7 million from an Ecuadorian banana exporter that reneged on an agreement to deliver nearly 1.7 million boxes of bananas in 2019 and was a no-show during the underlying arbitration, according to documents filed in Florida federal court.

Chiquita Brands International SARL told the court in a petition for enforcement filed on Monday that it had received the award from an International Centre for Dispute Resolution tribunal in Miami in March 2020. The banana company argued that there's no reason why the award, issued against a company called Zamhern SA, shouldn't be enforced in full.

"No matters remain pending before the tribunal," Chiquita said. "The award is final, binding, and remains unsatisfied."

Although Zamhern had entered an initial appearance in the arbitration, its counsel withdrew from the proceeding less than a month later. Thereafter, the company failed to appear or otherwise participate in the proceedings — even during a final hearing that was held in January 2020, according to court documents.

Chiquita and Zamhern had inked an "international banana sales contract" in 2018. Under the pact, Zamhern was supposed to deliver 32,400 boxes of bananas to Chiquita per week during all of 2019, totaling more than 1.68 million boxes, the suit says. But the company failed to deliver even one box of the promised bananas, according to the suit.

Thereafter, Chiquita filed for arbitration in early 2019 before the ICDR. On March 23, 2020, the tribunal awarded Chiquita \$5.46 million in lost profits and more than \$270,000 in interest, fees and costs.

Counsel for Chiquita and representatives for Zamhern could not immediately be reached for comment on Wednesday.

Chiquita is represented by Jordi C. Martínez-Cid and Diego Pérez Ara of Leon Cosgrove LLP.

Counsel information for Zamhern wasn't immediately available on Wednesday.

The case is Chiquita Brands International SARL v. Zamhern SA, case number 1:21-cv-22359, in the U.S. District Court for the Southern District of Florida.

--Editing by Ellen Johnson.

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