

**COLLECTIVE ACTION IN INVESTMENT
ARBITRATION TO ENFORCE SMALL CLAIMS –
JUSTICE TO THE DEPRIVED OR DEATH KNEEL
FOR THE SYSTEM OF INVESTOR-STATE
ARBITRATION?**

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“With no loving in our souls and no money in our coats

You can’t say we’re satisfied”

(Mick Jagger/ Keith Richards, Angie)¹

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ABSTRACT

This paper deals with whether collective action can be a way to seek justice for small investors or would rather be the “straw that breaks the camel’s back” and damage the system of investment arbitration. The author, first of all, points out the challenges faced by small claimants in bringing an investment arbitration claim against a State, which mostly concern the costs of investment arbitration. With respect to those obstacles, the author then introduces some methods to overcome such challenges, including collective action. Finally, the author suggests that the system of investment arbitration will be robust enough to deal with collective action and may find its own tools to make the system fair and workable. Meanwhile, the author simply does not follow the skepticism with respect to the future of investment arbitration, keeping in mind that mechanisms declared dead by the pessimists often live considerably longer.

KEYWORDS: *ICSID, investor-state arbitration, costs of investment arbitration, small investor, collective action*

¹ “Angie” is a song by the Rolling Stones written by Mick Jagger and Keith Richards for the 1973 album “*Goats Head Soup*.”