IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED
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Lyle W. Cayce
Clerk

No. 19-20620

3D/INTERNATIONAL, INCORPORATED; PARSONS INTERNATIONAL LIMITED; PARSONS INGENIERIA, S. DE R.L. DE C.V.,

Plaintiffs–Appellants

v.

JOSEPH F. ROMANO,

Defendant–Appellee

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:18-CV-2432

Before OWEN, Chief Judge, and HIGGINBOTHAM and WILLETT, Circuit Judges.

PER CURIAM:*

Joseph Romano sued his (former) U.S.-based employer, Parsons, in Mexican labor court for reinstatement of his employment or, in the alternative, severance benefits under Mexican labor law.[1] However, Romano had signed a contract waiving his right to do just that. So, in turn, Parsons sued Romano in

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

[1] "Parsons" generally refers to Parsons Corporation, Parsons International Limited, Parsons Ingenieria, S. DE R.L. DE C.V., and 3D/International, Inc. ("3DI," individually).

the United States for breach of contract. The district court granted summary judgment in favor of Romano, finding that the parties never had an enforceable contract. We disagree with the district court's determination and, therefore, reverse.

I

Parsons is a U.S. corporation that manages various construction projects throughout the world. And in 2014, Romano—an experienced architect—applied for a position with the company to help design a new airport in Mexico City. After engaging in negotiations over employment terms and benefits, Parsons contingently offered Romano a position as Senior Design Manager for the Mexico City project. Romano's offer letter noted an expected start day of January 12, 2015 and explained that he would be based in Mexico City. The offer letter further provided that Romano's "salary [would] be paid in US dollars by a US Parsons' subsidiary from [Parsons'] Houston payroll service center." Romano was informed that his employment would be "at will," meaning that either party could "terminate the employment relationship . . . at any time, with or without cause."

In addition to an annual salary of approximately $197,500, the offer letter outlined that Romano would receive benefits such as: a year-end bonus of $337.52 USD for each full week of assignment; a monthly living allowance; moving expenses, including plane tickets for his family, shipment of household goods, and reimbursement for medical expenses, inoculations, and visa/work permits (in USD); private school tuition for two children; life, medical, dental, and vision insurance; retirement benefits; and "[p]rotection against Mexican income taxes on company-source income." The offer letter further explained that, "[d]uring the first few months of the project, . . . [Romano would] receive a short[-]term agreement." And only "[a]fter commercial terms [were] finalized [would Romano] be assigned to a Parsons Mexican Service Company . . . and

issued a long[-]term assignment agreement." Romano accepted the position and began employment accordingly.

Approximately seven months later, all U.S. Parsons employees working in Mexico were set to become employees of 3DI, a Texas corporation and subsidiary of Parsons. As Parsons had previewed in the offer letter, Romano was required to execute new agreements as part of the transition: the Long Term International Assignment Agreement (the "LTIAA"); the Local Mexico Agreement (the "Local Agreement"); and the Agreement Regarding Employment Arrangements (the "AREA"). In a detailed email, Parsons explained the purpose of each employment agreement:

- The LTIAA outlined the terms and details of Romano's assignment in Mexico and assignment to 3DI, including compensation, bonus structure, housing allowance, and other benefits.
- The Local Agreement outlined the details of Romano's employment with Parsons' local entity, Parsons Ingenieria, S. DE R.L. DE C.V. Parsons explained that the agreement was required to enable Parsons to file Romano's local Mexican taxes and deposit allowances into his local Mexican Peso bank account. Finally, Parsons emphasized that the agreement was a "requirement of Mexican Federal Labor Law . . . in order for [Romano] to work in Mexico" and that the agreement outlined "the Mexico labor standards that [would] be observed while [Romano was] on assignment in Mexico such as holidays, work rules, bonus payments, etc."
- The AREA outlined Romano's employment relationship with 3DI, acknowledged that Romano would be employed by a U.S. company during his assignment in Mexico, and "affirm[ed] that [Romano was] a US employee receiving US benefits, and as a US employee, [Romano] renounce[d] any claims to Mexico benefits."

Romano exchanged numerous emails with Parsons clarifying the terms of these agreements before executing all three.

Later, after clients expressed some displeasure with Romano's job performance as Senior Design Manager, Parsons reassigned him to manage

the design of the terminal building as lead architect. When Romano's work on this project came to a close, Parsons informed him that his employment would also be ending. His last day was three months later—July 31, 2017.[2]

Romano then filed suit against Parsons in Mexican labor court seeking reinstatement of his employment and compensation for the time he was not employed or, in the alternative, severance benefits under Mexican law. While that suit was pending—as it remains today—Romano also applied for unemployment benefits under Texas and U.S. law. He also applied for and received short-term disability benefits through Parsons' insurance plan between August and October 2018,[3] and he received California state disability benefits during this time.

Because Romano's Mexican lawsuit undisputedly violates the terms of the AREA, wherein he waived his right to pursue certain Mexican labor benefits, Parsons filed suit for breach of contract in Texas state court. Romano removed to federal court. The parties cross moved for summary judgment, which the district court granted in favor of Romano. The district court determined that the AREA is not a valid, enforceable contract under Texas law because there was no consideration for the agreement and the AREA "is an explicit attempt to circumvent Mexican employment laws." Parsons now appeals.

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[2] During this time, Parsons offered Romano a position as Lead Design Manager on a project at a Houston airport, but Romano declined the offer.

[3] After Romano's employment ended, he elected to continue receiving Parsons insurance benefits by paying his portion of the insurance premiums through February or March 2018. Parsons then continued to pay for and provide Romano with these health benefits through September 2018, even though Romano did not continue to pay his portion.

II

We review a district court's summary judgment order de novo, "applying the same standard as the district court." *SCA Promotions, Inc. v. Yahoo!, Inc.*, 868 F.3d 378, 381 (5th Cir. 2017). Summary judgment is proper "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." *Id.* (quoting Fed. R. Civ. P. 56(a)). Here, the only dispute is whether the AREA is a valid, enforceable contract, which is a question of law we also review de novo. *Id.*

III

As noted, the district court determined that the AREA is not a valid, enforceable contract under Texas law for two reasons: lack of consideration and circumvention of Mexican laws. Predictably, Parsons argues that the district court is wrong on both counts, while Romano insists the district court was, mostly, spot on. Romano agrees with the district court's conclusion that the agreement is invalid under Texas law, but he urges us to find the agreement invalid under Mexican law, without reaching Texas law. We begin with the choice-of-law question before turning to the district court's reasoning.

A

Though Romano acknowledges that the AREA contains a Texas choice-of-law provision, he argues that Mexico law should instead control because Mexico does not permit a person to waive his right to Mexican labor benefits. But this argument is stuck in a tautology: we must employ foreign law to invalidate a contract because foreign law says the contract is invalid.

Instead, while they are not unassailable, our default position is that choice-of-law provisions should be enforced. *Cardoni v. Prosperity Bank*, 805 F.3d 573, 580–81 (5th Cir. 2015). To render such a provision *unenforceable*, a party must demonstrate that:

> (a) the chosen state has no substantial relationship to the parties or the transaction and there is no other reasonable basis for the parties' choice, or
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> (b) application of the law of the chosen state would be contrary to a fundamental policy of a state which has a materially greater interest than the chosen state in the determination of the particular issue and which, under the rule of § 188 [of Restatement (Second) of Conflict of Laws], would be the state of the applicable law in the absence of an effective choice of law by the parties.

Id. at 581 (quoting Restatement (Second) of Conflict of Laws § 187(2)).

The first subsection is inapplicable: 3DI is a Texas corporation, and that fact alone is sufficient to demonstrate a reasonable basis for the choice-of-law provision. *See id.* at 581–82.

The second subsection applies only if another state: (1) has a more significant relationship with the parties and the transaction at issue than the chosen state; (2) has a materially greater interest than the chosen state in the enforceability of the provision at issue; *and* (3) has a fundamental policy that would be contravened if the chosen state's law is applied. *Id.* at 582.

1. More Significant Relationship

The "more significant relationship" test considers: (a) the place of contracting; (b) the place of negotiation of the contract; (c) the place of performance; (d) the location of the subject matter of the contract; and (e) the domicil, residence, nationality, place of incorporation, and place of business of the parties. *Id.* (citing Restatement § 188(2)). We weigh these factors "not by their number, but by their quality." *Id.* at 582–83 (internal quotation omitted). And, by weight, the scales tip toward Texas.

First, the place of contracting. Romano was in Mexico City when he signed the AREA, but a representative of 3DI, a Texas corporation, affixed the last signature. And "the place of contracting is the place where occurred that last act necessary . . . to give the contract binding effect." Restatement § 188, cmt. e. The parties dispute whether the representative signed the agreement in Texas or Mexico, but because this issue is the subject of Romano's motion for summary judgment, we must draw all reasonable inferences and view all facts in favor of Parsons. *See CQ, Inc. v. TXU Min. Co., L.P.*, 565 F.3d 268, 272–73 (5th Cir. 2009). Therefore, we assume the Lone Star state is the place of contracting, but, in any event, this "is a relatively insignificant contact." Restatement § 188, cmt. e.

Second, the place of negotiation. Romano simultaneously argues that there was no consideration for this contract—no bargain—and that the contract was negotiated for in Mexico City. However, the record reflects that the terms discussed in the AREA—the benefits that Romano would receive as a U.S. employee working in Mexico City—were negotiated for by Romano while he still lived in the United States (though not in Texas). And, at all times, Parsons' contract negotiations were overseen by employees in Texas. This factor, which is "significant," Restatement § 188, cmt. e, therefore, favors Texas over Mexico.

Third, the place of performance. Performance is divided between two locations. Romano was to perform in Mexico City. But Parsons' performance—payment of salary and provision of benefits—explicitly came from its Houston, Texas payroll department. So this factor is not conclusively in favor of either location.

Fourth, the subject matter of the contract. Without question, the subject matter of the contract concerns Romano's assignment in Mexico City. This factor, therefore, favors Mexico.

Fifth, the domicil, residence, nationality, place of incorporation, and place of business of the parties. At the time of contracting, Romano was a U.S. citizen living on temporary assignment in Mexico City, while 3DI was headquartered in Texas. Again, an inconclusive factor.

To overcome the choice-of-contract provision, Romano was required to show that Mexico had a *more significant* relationship with the parties and the transaction than Texas. Even if we were to construe the first contact—place of contracting—in favor of Mexico instead of Texas, Romano has failed to meet his burden. The factors reflect, at best, that both Texas and Mexico have a similarly significant relationship with the parties, which does not warrant ignoring a contract's forum-selection clause. *See Access Telecom, Inc. v. MCI Telecomms. Corp.*, 197 F.3d 694, 706 (5th Cir. 1999) (noting that the parties had "a very symmetric relationship" between Texas and Mexico and determining that, even if Mexican interests were more implicated than Texas interests, the choice of law provision should be given some weight, and Texas law should control "in such a close case").

2. Materially Greater Interest in Enforceability

For the avoidance of doubt, we dutifully continue to the second prong, whether Mexico has a *materially greater* interest in the enforceability of the AREA than Texas. On balance, it does not. To be sure, Mexico has an interest in the enforceability of it labor laws, but this interest simply does not overshadow Texas's interest in the enforceability of at-will employment relationships with Texas corporations.

In *Exxon Mobil Corp. v. Drennan*, the Supreme Court of Texas explained that "[w]ith Texas now hosting many of the world's largest corporations, our public policy has shifted . . . to one in which we value the ability of a company to maintain uniformity in its employment contracts across all employees," regardless of where the individual employees reside. 452 S.W.3d 319, 329–330

(Tex. 2014). The Court emphasized that this uniformity "prevents 'the disruption of orderly employer-employee relations' within [] multistate companies and avoids disruption to 'competition in the marketplace.'" *Id.* at 330 (quoting *DeSantis v. Wackenhut Corp.*, 793 S.W.2d 670, 680 (Tex. 1990)); *see also* Restatement § 187 cmt. e (explaining that "[p]rime objectives of contract law are to protect the justified expectations of parties . . . by letting [them] choose the law to govern the validity of a contract").

Despite the significance of this interest, Texas courts have declined to apply choice-of-law provisions when ensuring uniformity was the contracted-for state's only interest in the contract and the entire agreement was otherwise effectuated elsewhere. *See, e.g.*, *Exxon Mobil*, 452 S.W.3d at 326–27 (applying Texas law over New York choice-of-law provision where both employer and employee were Texas residents); *DeSantis*, 793 S.W.2d at 679 (applying Texas law over Florida choice-of-law provision where all business matters occurred in Texas and noncompete provision concerned businesses opening in Texas).

But unlike in *Exxon Mobil* and *DeSantis*, here the relationship is divided between the two localities. On the one hand, Romano resided in Mexico City where the airport project was under way. On the other, the airport project was directed by employees in the Houston office and Romano was paid in U.S. dollars by a Texas entity, received protection from Mexico taxes by the Texas entity,[4] and received U.S. employment benefits not required under Mexico law,[5] all pursuant to an at-will employment relationship that began exclusively

[4] 3DI agreed to pay any Mexican income taxes Romano owed over and above those he would incur as a U.S. employee. Conversely, if U.S. income taxes were higher, 3DI agreed to pay Romano the difference.

[5] Parsons explains, and Romano does not dispute, that Romano's high annual salary (nearly $200,000), living expenses, private-school tuition, insurance coverage, and retirement benefits were offered because Romano "would be an American employee working for an American employer under American law." Parsons highlighted that it does not offer these

in the United States. Notably, Mexico's labor laws do not recognize at-will employment relationships. As such, Texas's interest in this matter is not simply ensuring uniformity in a company's employment practices. It also has a unique interest in upholding an at-will employment relationship that was directed by employees working in Texas and was originally entered into in the United States by a Texas corporation and a U.S. citizen. *Cf. Randall v. Arabian Am. Oil Co.*, 778 F.2d 1146, 1153 (5th Cir. 1985) (acknowledging Saudi Arabia's interest in keeping its labor disputes within its country, but also "find[ing] paramount [the United States'] interest in providing a forum to a United States citizen seeking to sue a United States corporation on a[n] employment contract negotiated and made in the United States").

Mexico and Texas certainly have competing interests in the enforceability of the AREA, but to overcome the choice-of-law provision in favor of Texas, Romano needed to demonstrate that Mexico's interest is *materially greater* than Texas's. We fail to see how Mexico's interest in prohibiting a U.S. citizen from waiving his right to seek Mexican labor benefits during his temporary assignment in Mexico City materially outweighs Texas's interest in upholding a freely exercised, at-will employment relationship that was originally formed in the United States between a Texas corporation and a U.S. citizen. Therefore, the Texas choice-of-law provision applies.

3. Contravention of Fundamental Policy

Because Romano failed to satisfy the first two prongs, it isn't necessary to reach this factor. But we briefly acknowledge that Mexico does have a fundamental policy interest in enforcing its labor laws. And Mexico does not permit employees to waive their rights to the benefits its labor laws provide.

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benefits and high salaries to individuals employed in Mexico under Mexican law, in part because Mexican labor laws make those benefits untenable.

However, this factor standing alone is not sufficient to override the parties' contracted-for choice-of-law provision.[6] Therefore, we enforce the AREA's choice-of-law provision and apply Texas law. As such, we now turn to the district court's consideration of the AREA under Texas law.

B

The district court determined that the AREA lacked consideration because it "was executed after the [Local Agreement] and the LTIAA and purports to modify the [Local Agreement] and waive employment rights without additional consideration." Even assuming, for the sake of argument, that the AREA was executed after the other two agreements,[7] the district court's conclusion misunderstands the nature of Texas at-will employment contracts.

Texas courts have long acknowledged that "[p]arties have the power to modify their contracts." *Hathaway v. General Mills, Inc.*, 711 S.W.2d 227, 228 (Tex. 1986). And, like the original contract, the modification must reflect a meeting of the minds and be supported by consideration. *Id.* In employment at-will situations, either party has the right to end the employment relationship at any time, for any reason. So, either party can also impose a modification to the employment terms at any time, the consideration for which being continued employment. *Id.* at 229. In other words, "when the employer

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[6] Romano repeatedly argues that we must apply Mexican law and find the agreement invalid because, he alleges, to obtain the contract for the airport project, Parsons was required to abide by all Mexican labor laws. But this argument is a red herring. Parsons' contract for the airport project is a separate agreement between entities not subject to this dispute. Whether the Mexican government chooses to terminate its agreement with Parsons due to Parsons' employment agreements is an issue for the parties privy to that contract, not this court.

[7] Romano suggested that he signed all three documents at the same time, and the parties dispute whether the three contracts should be considered as a single instrument, such that consideration for one constitutes consideration for all. Because resolution of that particular disagreement won't affect our outcome, we decline to weigh in.

notifies an employee of changes in employment terms, the employee must accept the new terms or quit. If the employee continues working with knowledge of the changes, he has accepted the changes as a matter of law." *Id.*

Now properly oriented in Texas law regarding at-will employment, we can consider whether the AREA is a valid modification of the employment relationship between Parsons and Romano. A modification is valid if the employee (1) had notice of the change; and (2) accepted the change. *Id.*

Notice of a change in employment must be unequivocal and definite. *Id.* Here, as outlined above, Parsons provided a detailed email explaining the three agreements and their relationship with one another. Further, the AREA explicitly explained:

> Employee acknowledges that he is employed solely by Employer in the United States of America as an at-will employee and receives all their employment benefits in accordance with the State of Texas and the Federal laws of the United States of America. . . . The Employee's employment services will be performed under the auspices of another affiliate of Employer, Parsons Ingenieria S. de R. L. de C.V. . . .
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> Employee has signed or will sign a labor agreement with Parsons Ingenieria (the "[Local Agerement]") which contract is a requirement of Mexican Federal Labor Law . . . in order for Employee to work in Mexico on the Project. This Agreement affects certain rights that Employee would otherwise have under Mexican law and the [Local Agreement]. Specifically, Employee voluntarily waives certain of those rights and to undertake additional obligations toward Employer as described herein in consideration of being employed by Employer on the Project and receiving compensation and benefits he would not otherwise receive. . . .
>
> The Employee waives the right to make any claims to any employment, social security or any other type of benefit that could be afforded to him by the Mexican Labor Law, the Mexican Social Security Law or any other Mexican law in connection with the employment services performed for Employer or its related companies in Mexico.

Despite the straightforward explanation in the AREA, Romano argues that he did not have notice that the AREA was modifying his employment relationship because the Local Agreement, to which the AREA refers, states that it "may only be modified, suspended, rescinded or terminated in the cases and under the terms provided herein and in the Federal Labor law." Therefore, Romano argues, he could not have had notice of which agreement controls.

Romano's argument feigns ignorance. The AREA explicitly and unequivocally stated its purpose and effect: that to continue receiving U.S. employment benefits, Romano must waive rights he would otherwise have under Mexican law. For Romano's argument—that he did not have notice—to have merit, it must be true that Romano did not believe, or at least doubted whether, the AREA had any effect. In light of the email explaining the relationship of the three agreements, the unequivocal expressions in the AREA itself, and Romano's subsequent conversations with Parsons regarding the agreements—wherein he sought clarification on matters he was unclear about but did not express concerns regarding the AREA—there can be no doubt that Romano received clear notice of the modifications to his employment relationship with Parsons.[8]

[8] Romano points to two cases to insist that he did not have notice of the modification to his employment arrangement, but both cases are inapposite. For instance, in *Hathaway*, the Texas Supreme Court found that the employee did not have sufficient notice of a definite change to his employment terms where, after complaining of proposed change, the employee's superior told him "not to worry about the change" and that he "would take care of the problem." 711 S.W.2d at 229. Similarly, in *Moran v. Ceiling Fans Direct, Inc.*, we found a lack of notice where the employer orally noted that the company would be introducing a new arbitration policy, but it failed to read the policy to the employees, explain the new arbitration policy, ensure that employees received a copy of the policy, or require employees to sign an acknowledgment of the policy (though they were required to sign acknowledgments of other policies). 239 F. App'x 931, 936–37 (5th Cir. 2007) (unpublished). Further, the employer repeatedly told employees that the company "would take care of them" and "not to worry" about the arbitration agreement. *Id.* at 937. In contrast to the equivocation presented in these cases, Parsons was thorough and unwavering in its explanation of the AREA and its requirement that it be executed as a condition of employment.

Because Romano does not contest that he accepted the modifications by signing the AREA and continuing his employment with Parsons, and we have determined that he had sufficient notice of the changes, we conclude that the AREA is a valid modification to Romano's at-will employment relationship with Parsons. The district court was, therefore, incorrect to find the agreement invalid for lack of consideration.

C

The district court further found that the AREA is unenforceable because "it is an explicit attempt to circumvent Mexican employment laws." Quoting *Access Telecom*, the district court noted that "a contract made with a view of violating the laws of another country, though not otherwise obnoxious to the laws either of the forum or of the place where the contract is made, is illegal and will not be enforced." 197 F.3d at 707. But this quote from *Access Telecom* cuts off the discussion far too quickly. In *Access Telecom*, we went on to analyze what that general principle means today and noted that "modern choice of law analysis in Texas applies the law of the forum with the 'most significant relationship' to the contract in question." *Id.* (internal citation omitted). And so, it is entirely possible that "a contract legal in the U.S. may be illegal in Mexico, yet under choice of law analysis, Mexican law might not be chosen to apply." *Id.* And "[i]f Mexican law does not apply to determine validity, then to say the contract is illegal in Texas because it violates Mexican law reverts too quickly back to a discarded conclusion." *Id.*

So, despite the district court and Romano's suggestion otherwise, we need not invalidate an agreement simply because that agreement is contrary to the laws of the country where the contract is performed. *Id.* Instead, we will defer to foreign law if one of two circumstances exists: the contract presents a party with a catch-22; or the principle of comity so requires. *Id.* at 708.

First, we will defer to foreign law and invalidate an agreement if the contract—legal in the United States but illegal in Mexico—presents a catch-22 for one of the parties, such that the party must choose to either face liability in Mexico or face breach of contract claims in the United States. *Id.* This situation is not present here. Because Romano is not obligated to pursue Mexican labor benefits, he is not breaking Mexican law by honoring the terms of his contract with Parsons. *See id.*

Second, we will defer to foreign law if the principle of comity demands it. *Id.* Comity follows the "golden rule": do unto others as you would have them do unto you. *See id. Access Telecom* points to *Ralston Purina Co v. McKendrick* as an example where comity would be required. There, Texas invalidated a contract to export goods into Mexico because, under Mexican law, the exporters were smugglers who did not have the necessary Mexican licenses for their ventures. 850 S.W.2d 629, 639 (Tex. App.—San Antonio 1993). The *Access Telecom* court explained that, had the court been applying the modern analysis, the principle of comity would have been a strong basis for holding the contract illegal. 197 F.3d at 708. We would invalidate a contract that requires smuggling goods from Texas into Mexico, even if the individuals legally owned the goods in the United States, because we would want Mexico to do the same in return.

Romano argues that the principle of comity applies here by drawing an analogy to Fair Labor Standards Act.[9] He proffers that the United States would expect a Mexican court to apply the FLSA to a Mexican citizen working

[9] Romano also argues that the contract is unenforceable because it is against public policy in Texas to permit waivers of intentional torts, including "illegal termination." However, Romano has not demonstrated why his termination would constitute a tort under Texas law. He was an at-will employee, and there is no suggestion that Romano was terminated for declining to perform an illegal act. *See Safeshred, Inc. v. Martinez*, 365 S.W.3d 655, 659 (Tex. 2012).

in the United States. But we're not so convinced. First, for the comparison to work, we would need to assume that the Mexican citizen originally entered into the employment relationship with a Mexican employer while in Mexico for a temporary assignment in the United States and later received Mexican unemployment benefits. Second, we would have to assume that the employer paid the employee in Pesos and had offered the employee benefits greater than those required in the United States in exchange for his relinquishment of FLSA rights. And under those more analogous circumstances, it is unlikely that the United States has any expectation that Mexico would follow the "golden rule."

To this point, Parsons highlights cases where courts of varying jurisdictions declined to apply the principle of comity in similar circumstances. *See, e.g.*, *Thermo Fisher Scientific Inc. v. Ducharme*, 2008 WL 11399557 (S.D. Tex. Sept. 30, 2008) (declining to apply the principle of comity to invalidate agreement waiving a U.S. employee's right to sue his U.S. employer and its Mexican subsidiary for severance benefits under Mexican law); *de Leon v. Tesco Corp.*, 2006 WL 3313357 (Tex. App.—Houston Nov. 16, 2006) (upholding declaratory judgment in favor of employer where employee violated agreement by seeking Mexican labor benefits he had waived); *VF Jeanswear Ltd. P'ship v. Molina*, 320 F. Supp. 2d 412 (M.D.N.C. 2004) (granting summary judgment in favor of employer where employee sought additional severance benefits available under Honduran law after waiving her right to do so). While these cases are not binding on this court, they do suggest that U.S. courts do not have a clear expectation that foreign courts will enforce U.S. labor laws, such that the principle of comity would require us to enforce the labor laws of foreign nations when the parties have knowingly assented to be bound instead by U.S. law.

Finally, Romano argues that the agreement is unenforceable because Parsons intended to break the laws of Mexico. *See Access Telecom*, 197 F.3d at

708 (noting that there "appears to be" a public policy interest in precluding domestic forums from encouraging willful attempts to break foreign laws). But the record does not support this contention. Parsons provided Romano with the Local Agreement as required by Mexican law, which accurately set forth Romano's salary, work hours, holidays, and other terms of their employment agreement that were not affected by the AREA. That Parsons then amended the applicability of certain terms referenced in the Local Agreement does not reflect a willful violation of Mexican law. This is particularly true as Parsons expressly informed Romano that the agreements were developed in consultation with both U.S. and Mexican attorneys and asked Romano to raise any questions he had about the agreements, which further suggests that Parsons intended to act within legal confines.

Because the AREA does not create a dilemma for the parties, forcing them to choose between U.S. contract damages and Mexican liability, the principle of comity does not require us to apply Mexican law over Texas law, and Parsons did not attempt to willfully violate Mexican law, the district court erred in finding the AREA unenforceable.

IV

Romano, a U.S. citizen, entered into an at-will employment relationship with a U.S. corporation and, in exchange for a higher salary and other perks, waived his right to seek certain benefits afforded by Mexican labor law. We will not now override the parties' freely executed contract to enforce Mexican law over Texas law and deprive Parsons the benefit of its bargain. Instead, we determine that the AREA is a valid, enforceable contract. We therefore

REVERSE the district court's ruling and GRANT summary judgment in favor of Parsons.[10]

[10] Because we grant summary judgment in favor of Parsons on its breach of contract claim, we don't reach its alternative claims regarding declaratory relief or unjust enrichment.