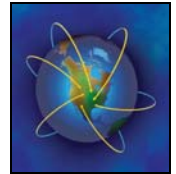




COALITION TO CURB GLOBAL FORUM SHOPPING



*“As a moth is drawn to the light, so is a litigant drawn to the United States...
If he can only get his case into their courts, he stands to win a fortune.”*

Smith Kline & French Labs Ltd. v. Bloch, 1 W.L.R. 730 (C.A. 1982)
[English Court of Appeal decision by Lord Alfred Thompson Denning]

THE PROBLEM: What is Global Forum Shopping?

In short, global forum shopping is a disturbing new trend in which foreign plaintiffs take advantage of the unusually permissive features of the American judicial system to file lawsuits in U.S. courts.

The plaintiff-friendly features of U.S. law — liberal discovery rules, the availability of jury trials, relatively high damage awards, class actions and contingency fee arrangements — all have led to foreign plaintiffs increasingly suing in U.S. courts. In addition, expansive substantive laws such as the Foreign Trade Antitrust Improvements Act, the Alien Tort Statute and product liability laws offer foreign plaintiffs opportunities to sue in U.S. courts that often do not exist in their home jurisdictions. At the same time, U.S. courts have expansively applied principles of personal jurisdiction, agreeing to hear cases that have no greater connection to the forum than that the defendant does some limited business in the U.S. This has led to the development of a new type of litigation abuse: global forum shopping.

Global companies have a big stake in stopping this troubling trend. Without reform, there is no end to the court cases that could be launched and possibly interfere with international investment flows and international relations. Global investors will be discouraged from doing business with American firms or establishing a presence here in the United States and they may tread lightly when it comes to mergers and partnerships. Abuse of the Alien Tort Statute will continue to expose U.S. and foreign companies to specious liability for the conduct of regimes around the world. Inventive plaintiffs’ lawyers will continue to search for other ways to take advantage of the U.S. litigation system, since merely filing a case in the U.S. increases its settlement value. In response, courts in other countries may seek to extend *their* jurisdiction across the globe as well.

Reflecting the growth of this trend, the U.S. Supreme Court has heard three global forum shopping cases this term: *Intel Corp. v. Advanced Micro Devices, Inc.*, concerning the applicability of U.S. discovery rules to cases being heard in a foreign forum; *Empagran v. Hoffman-LaRoche Ltd.*, concerning the scope of U.S. antitrust laws, and *Sosa v. Alvarez-Machain*, concerning whether the Alien Tort Statute gives rise to a cause of action or is merely jurisdictional. Regardless of the outcome in these cases, it is clear that there is much work to be done to curb the growth of global forum shopping.

THE SOLUTION: The Coalition to Curb Global Forum Shopping

The U.S. Chamber of Commerce Institute for Legal Reform has created the Coalition to Curb Global Forum Shopping.

The mission of the Coalition is to promote awareness and address the problem of global forum shopping—the effort by foreign plaintiffs and their attorneys to take advantage of permissive aspects of the U.S. legal system that are not available in the plaintiffs' home countries. The Coalition will promote practical steps to discourage the inappropriate use of U.S. courts by foreign plaintiffs whose claims should rightly be adjudicated abroad. Working to develop a unified business strategy, the Coalition will seek to curb global forum shopping through research, judicial and public education and other initiatives, perhaps including legislative relief.

For more information please contact:

Lisa Rickard, President
U.S. Chamber Institute for Legal Reform
(202) 463-3107
LRickard@USChamber.com

Robin Conrad, Sr. Vice President
National Chamber Litigation Center
(202) 463-5337
RConrad@USChamber.com