

## International

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In *Germaninvestments AG v. Allomet Corporation*, the **Supreme Court of Delaware** considered whether a **foreign loan agreement's forum selection clause**, designating Vienna, Austria as the governing law and jurisdiction, was a **mandatory or permissive forum selection clause**. The court held that because the **party seeking enforcement of the clause held the burden of showing foreign law applied, and failed to meet that burden, the law of the forum of the presiding court should apply to the forum selection clause**. For those reasons, and under Delaware law, the court interpreted the forum selection clause to be permissive rather than mandatory. (January 27, 2020)

In *Jesner v. Arab Bank PLC*, the **United States Supreme Court** held that foreign corporations may not be sued under the **Alien Tort Statute (ATS)** for allegedly financing terroristic acts. The Court cited concerns about **diplomatic tensions** and interference in **foreign relations** (which is in the purview of the Executive Branch). The Court also recognized that it was not well-suited to make the required policy judgments implicated by foreign liability. (April 24, 2018)

In *Rubin v. Islamic Republic of Iran*, the **United States Supreme Court** addressed whether a **holder of a judgment against Iran** could enforce that judgment by **attaching Iranian assets** in the possession of the University of Chicago, because the Foreign Sovereign Immunities Act (FSIA) allows an **exception to immunity that applies to states that are designated as sponsors of state terrorism**. The court held the judgment-holder **could not attach** the property, because the FSIA did not divest the property of its immunity from attachment. (February 21, 2018)

In *Arabian Support & Services Company, Ltd. v. Textron Systems Corporation*, the **United States Court of Appeals for the First Circuit** addressed whether a **weapons development company** owed compensation to a **Saudi Arabian business** in relation to a deal to sell **sensor-fuzed weapons** to the Saudi government. The court held that the **Saudi company** was entitled to proceed with a claim of **unfair business practices** against the **weapons manufacturer**, as the weapons developer had failed to abide by an agreement to supplement the fees under the parties' **consulting agreements** through an **offset arrangement** linked to the weapons deal. (April 19, 2017)

In *Rushaid v. Pictet & Cie*, the **New York Court of Appeals** addressed **personal jurisdiction under New York's long-arm statute** over a private

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Swiss bank that allegedly **used New York correspondent accounts to receive and transfer illicit funds**. Finding personal jurisdiction, the court held that **a foreign bank with a correspondent account that repeatedly approves deposits and the movement of funds through that account for the benefit of its customer is “transacting business in New York” even though the customer, or a third-party at the customer’s direction, actually deposits or transfers the funds to New York**. (November 22, 2016)

In *Ardstein v. Lebanese Canadian Bank, SAL*, the **United States Court of Appeals for the Second Circuit** addressed whether a bank that facilitated wire transfers of several million dollars to Hezbollah could be held liable by the families of victims of Hezbollah rocket attacks under the **Alien Tort Statute**. The court held that, while the plaintiffs overcame the presumption against the extraterritorial application of the Alien Tort Statute, customary international law does not recognize **liability for the bank**, despite the bank’s grant of access to funds that were ultimately used for **terrorist activities**. (August 24, 2016)

In *OFI Asset Management v. Cooper Tire & Rubber*, the **United States Court of Appeals for the Third Circuit** found that **investors in a proposed merger of tire companies did not meet the heightened pleading burden** that, under the **Private Securities Litigation Reform Act of 1995 (PSLRA)**, applies to securities fraud claims. The court found that the **statements that investors identified were neither false nor misleading** and that dismissal of the PSLRA claims was warranted. (August 22, 2016)

In *RJR Nabisco, Inc. v. European Community*, the **United States Supreme Court** addressed **RICO applicability** outside of the United States. The Court held that RICO’s private right of action is **limited to those involving a domestic injury** to business or property. (June 20, 2016)

In *OBB Personenverkehr AG v. Sachs*, the **Supreme Court of the United States** granted a writ of certiorari on the following issues:

1. Under the commercial activity exception of the Foreign Sovereign Immunities Act (FSIA), which of the following controls how to determine when an entity is an agent: (1) the express definition of “agency” in the FSIA; (2) the factors set forth in *First National City Bank v. Banco Para el Comercio Exterior de Cuba*; or (3) common law principles of agency.
2. Whether under the **commercial activity exception** of the FSIA, a tort claim for personal injuries suffered in connection with **travel outside of the United States** is “based upon” the allegedly tortious conduct occurring outside of the United States or the preceding sale of the ticket in the United States for the travel entirely outside the United States. (January 23, 2015)

In *Republic of Argentina v. NML Capital Ltd.*, the **United States Supreme Court** addressed whether a **judgment debtor** could obtain **post-judgment discovery** in aid of executing the judgment against a **foreign sovereign**. The court held that the Foreign Sovereign Immunities Act of 1976 governed the issue and **did not** include any provisions **precluding such discovery**. (June 16, 2014)

In *Daimler AG v. Bauman*, the **United States Supreme Court** addressed whether a court can **exercise jurisdiction** over a **foreign company** based on the fact that a **subsidiary of the company acts on its behalf** in the forum state.

The Court held that Daimler cannot be sued in California for injuries allegedly caused by conduct of its Argentinean subsidiary when that conduct took place entirely outside of the United States. The **company's slim contacts in California**, relative to its other national and international contacts, were **not sufficient to render it "at home"** in the state for the purpose of general jurisdiction. (January 14, 2014)