

THE CROSS-BORDER CUT

YOUR TRANSNATIONAL LITIGATION AND ARBITRATION BRIEFING.

March 2016

FOREIGN CORPORATIONS NOT OUT OF THE WOODS YET

By now, most companies have heard how the U.S. Supreme Court's watershed decision in *Daimler AG v. Bauman* refashioned the test for "general" personal jurisdiction and made it more difficult for plaintiffs to sue foreign corporate defendants in the U.S. As a refresher, prior to *Daimler*, a foreign bank with a New York branch could have been sued in New York on any claim arising in any forum, due to the bank's "continuous and systematic" presence in the State. In *Daimler*, however, the Court drastically reduced foreign corporate defendants' jurisdictional exposure by ruling that due process requires that a corporation be subject to general jurisdiction in two forums only: its place of incorporation and its principal place of business (other than in an "exceptional case").



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WHEN PLEADING THE FIFTH IS NOT AN OPTION

A witness compelled to testify in foreign proceedings faces a unique risk in the event of subsequent criminal prosecution in the United States—an inability to exercise the Fifth Amendment right against self-incrimination. Say your client, a non-U.S. citizen and the director of a Cayman company, is being compelled to provide testimony in an administrative proceeding in the Cayman Islands regarding her company's liquidation. What advice should you give her regarding the impact of her Cayman testimony in subsequent U.S. proceedings? The answer depends on the nature of the subsequent proceeding.



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TIPPING AS A FORM OF INSIDER TRADING: CANADIAN AND UNITED STATES COURTS DIVERGE POST-NEWMAN

In addition to engendering numerous appeals of convictions for insider trading, the Second Circuit's decision in *United States v. Newman* illustrates some interesting differences in the legal frameworks proscribing insider trading in Canada and the United States.



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OUR CANADA CROSS-BORDER TEAM



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ABOUT HSG

Founded by former Southern District of New York Judge Richard Holwell and trial lawyers Michael Shuster, Daniel Goldberg, and Dorit Ungar Black, Holwell Shuster & Goldberg is a litigation boutique focused on the representation of clients in complex commercial, securities, antitrust, bankruptcy, and intellectual property litigation, as well as related civil, criminal, and regulatory matters. Learn more.

STAY CONNECTED

Upcoming Events

Join Holwell Shuster & Goldberg LLP in partnership with the Canadian American Bar Association, Blake, Cassels & Graydon LLP and Dorsey & Whitney LLP for a cross-border CLE titled "Lifting the Corporate Veil in the Recognition & Enforcement of Foreign Judgments: Approaches in the United States and Canada" on March 29, 2016.

Details & Registration

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