

# **INTERNATIONAL ASSET DISCOVERY**

## **LOCATING INFORMATION AND ASSETS WORLDWIDE THROUGH U.S. DISCOVERY PROCEEDINGS**

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## **INTERNATIONAL DISCOVERY UNDER 28 U.S.C. § 1782**

**What is 28 U.S.C. § 1782?** A very powerful litigation tool for participants in international court proceedings to obtain bank records, documents and witness testimony from sources located within the U.S., even if such evidence is unobtainable through the foreign court's procedures. Sources include the debtor or other persons, the debtor's business associates, current and former employees and family members found in the U.S. Discovery sources also include banks, corporations, investment companies, associations, partnerships and potentially law firms.

**How is it Done?** An application is filed with a U.S. federal court explaining the need for discovery for use in a foreign proceeding. Upon approval of the court, subpoenas are issued and discovery is taken in accordance with permissive U.S. discovery procedures. This process can be a relatively quick and efficient method for obtaining crucial information to win a case, locate assets and/or collect a debt. There is no need to obtain Letters Rogatory or pursue discovery through the Hague Evidence Convention.



## What information can be obtained?

❖ **Testimony: Witness Testimony Recorded by Stenographic and Video Means.**

❖ **Documents:**

- International Dollar Wire Transaction Records\*
- Emails and Correspondence
- Banking, Credit Card and Investment Account Records
- Phone Records
- Corporate Formation Documents
- Shareholder Meeting Records
- Board of Director Meeting Records
- Business Transaction Records (Acquisitions, Sales, Mergers, Divestitures)
- Accounting Records
- Employment Records
- Intellectual Property Records
- Property/Real Estate Transaction Records
- Attorney Records (that are not subject to attorney-client privilege)
- Medical Records
- Travel Records
- Education Records

\*U.S. Dollar wires transit the U.S. (typically New York) because they must be settled through the CHIPS and/or Fedwire systems. The FinCEN “Travel Rule” requires every wire to include an information trail about persons sending and receiving funds and U.S. banks can be required to disclose all related transaction information, even if the originating and destination banks are correspondent banks outside the U.S.

# Asset Recovery Successes

## ❖ 1782 International Discovery

- For a Russian diamond mining company, obtained wire records from multiple banks revealing \$42 million in suspicious transfers.
- For a Ultra High Net Worth client, obtained documents regarding the ownership structure of Renova Group and the deposition of Victor Vekselberg for use in Russian proceedings.
- For a Canadian company, obtained documents for use in litigation to recover under their policy against a major insurance company.

## ❖ Foreign Bankruptcy Recognition

- Represented the Russian State Corporation “Deposit Insurance Agency,” the trustee and the foreign representative of the Foreign Economic Industrial Bank Limited “Vneshprombank” Ltd. and obtained U.S. recognition of Russian insolvency proceedings allowing collection of U.S. based assets.
- Obtained turnover of Russian debtor’s assets held by a New York based trust, including substantial real estate holdings and bank deposits.
- Obtained an award of attorney fees and sanctions against debtor’s attorney for failure to comply with court orders.

## ❖ Foreign Judgment Enforcement

- Obtained recognition of a multi-million dollar Russian judgment in Connecticut arising from the Russian divorce of a prominent Russian businessman.
- Obtained recognition and confirmation of foreign commercial arbitration awards as federal court judgments in Oklahoma and Oregon.
- Provided key information to U.K. attorneys on foreign judgment recognition and execution actions in Virginia and Texas, related to defaulted Indian bank loans.



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Tom's practice includes representation of Western, Russian and Ukrainian clients in complex international commercial disputes and discovery matters. He has litigated numerous § 1782 discovery matters throughout the United States and authored Chapter 7 of *Obtaining U.S. Discovery For Use In Non-U.S. Tribunals Pursuant To 28 U.S.C. § 1782 (Chapter 7)*, Juris Publishing, LLC, 2020.

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