

SCOTUS Considers US Involvement in Foreign Litigation Evidence Gathering

Media Mentions

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The US Supreme Court recently heard oral arguments in a case disputing whether a US court can order discovery for litigation being held in Germany over the acquisition of an automotive parts maker: *ZF Automotive US Inc. v. Luxshare Ltd.*, No. 21-401; *AlixPartners LLP et al. v. Fund for Protection of Investors' Rights in Foreign States*, No. 21-518, *oral argument held*, (US Mar. 23, 2022).

Bracewell's **Rachel Goldman** told *Westlaw Today* that the high court's decision in this case could have consequences for the US legal system.

ZF Automotive US Inc. petitioned the high court to resolve a circuit court split in which the 4th and 6th Circuits have ruled that commercial arbitration panels are considered "foreign tribunals" under Section 1782, while the 2nd, 5th and 7th Circuits have found such panels are not subject to the statute.

"If the Supreme Court agrees with the minority of the circuit courts, it will open the flood gates for comprehensive US style discovery in any international arbitration that has any connection to the US, will create significant burdens on litigants and non-parties alike, and will eviscerate the perceived advantage of international arbitration over US litigation," said Goldman.

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Rachel B. Goldman

Partner

NEW YORK

+1.212.508.6135

rachel.goldman@bracewell.com

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