

American (Discovery) Abroad: 28 U.S.C. § 1782

AMERICAN BAR ASSOCIATION PRACTICE POINTS

07.07.2021

In this article, Member Brian Hill and Law Clerk Connor Farrell point out how Section 1782 serves as a powerful mechanism for coercing American-style discovery in foreign proceedings. Business frequently crosses international borders and occasionally results in disputes in foreign tribunals where relevant documents or witnesses are located in the United States. The authors discuss the requirements for, and potential limitations of, Section 1782. They wrote "28 U.S.C. § 1782 provides a mechanism to compel Americans to produce American-style discovery for use in foreign proceedings." Filing a section 1782 application can allow an interested party to a foreign proceeding to obtain documents, admissions, interrogatory responses or sworn testimony for use in the foreign proceeding from any person or entity who resides or is found in the United States. The authors noted "litigators of international business disputes should be aware of the powerful discovery assistance it can provide in resolving disputes in venues abroad."