



CRACKING THE CODE

How Section 1782 Unlocks Evidence for Global Disputes

For 75 years, the United States has made it possible for parties to use its courts to obtain discovery for use in foreign proceedings. Here's what you need to know.

> 1782 AT A GLANCE

Even before filing suit, foreign litigants can apply to U.S. courts to obtain fact discovery, without prior notice to the counterparty.

To be eligible:

- The targeted party must have a connection to U.S. jurisdiction, the information must be for use in a foreign proceeding (even if the foreign proceeding has not yet been filed), and the requesting party must be interested in the underlying dispute.
- The purpose of the statute is to assist parties in foreign proceedings, by giving them access to the broad discovery available in the United States.

>> SCOPE OF DISCOVERY

Parties applying under Section 1782 obtain the same broad scope of discovery available to litigants in U.S. litigation:

Parties may obtain not only relevant information, but material that is likely to lead to the discovery of relevant evidence.

Types of evidence:

- Documentary evidence (emails, agreements, transaction files)
- Computer data, text messages, recordings
- Sworn written responses to inquiries, and written admissions
- Sworn pre-trial cross-examined testimony

Sources of evidence:

- Information from parents / subsidiaries / affiliates
- Bank account information
- Personnel files
- Sales or accounting records
- Phone records

>>> STRATEGIC BENEFITS

1782 discovery can provide numerous strategic benefits, allowing you to:

- Obtain factual evidence before you file your action to help you detail your pleadings
- Tell your story publicly in advance of filing suit
- Obtain evidence from related or unrelated third parties
- Require parties to testify under oath in advance of trial, and facing U.S.-style cross-examination
- Leverage U.S. discovery rules without litigating in multiple jurisdictions

HOW WE SUPPORT CLIENTS

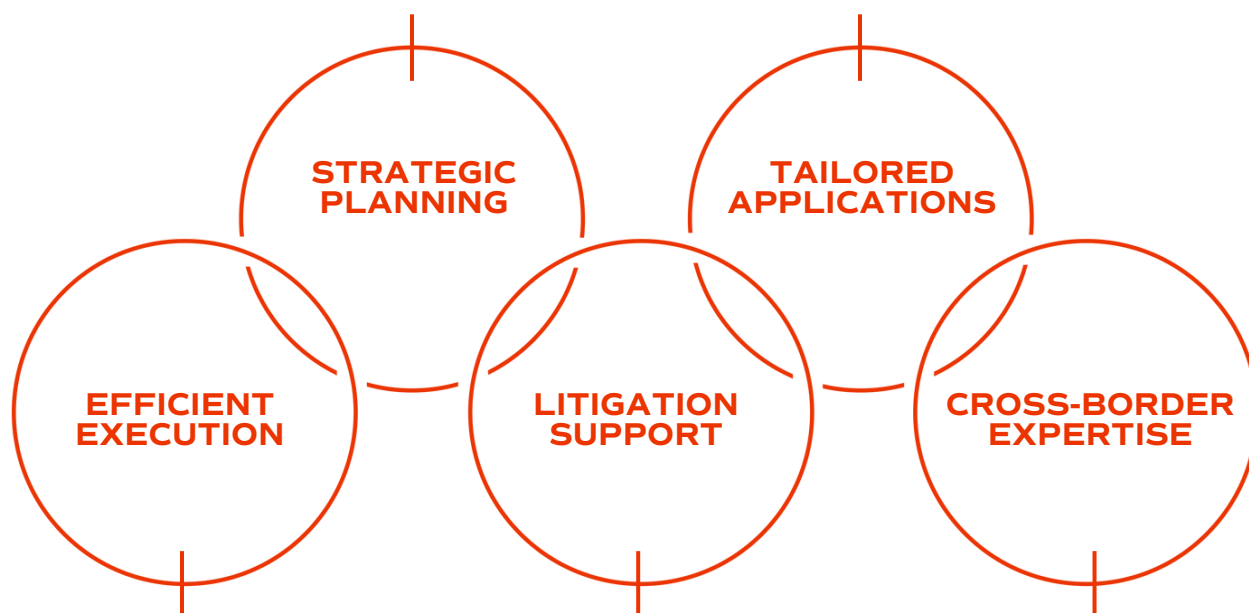
SEEKING TO LEVERAGE SECTION 1782

Slarskey LLC is a boutique litigation and trial practice comprised of attorneys who previously served as federal courts clerks and were associates or partners in the commercial litigation practices of large U.S. law firms.

We practice in an entrepreneurial format, with the objective of building relationships among like-minded international lawyers, making the legal world a little bit smaller.

We can help you evaluate your claims to identify potential targets for 1782 discovery.

Our lawyers craft precise and persuasive Section 1782 petitions that align with your legal and strategic goals.



We navigate the complexities of U.S. federal discovery procedures to obtain the evidence you need quickly and effectively.

Our team is ready to advocate for you in federal court, with a proven understanding of the factors courts consider.

We work seamlessly with foreign counsel and clients to ensure that evidence we obtain is admissible and impactful in your foreign proceeding.

EXAMPLES OF VARIOUS 1782 DISCOVERY ORDERS

- ***In re Application for an Order for Judicial Assistance in a Foreign Proceeding in the Labour Court of Brazil***, 244 F.R.D. 434 (N.D. Ill. 2007). The court granted a 1782 petition for discovery in proceedings before São Paulo's 68th and 72nd Labour Courts. The case involved wrongful termination claims by the former CEO and Financial Director of a Brazilian subsidiary of McDonald's Corporation. The officers obtained broad discovery, including interrogatories, documents, and depositions on topics such as personnel files, dismissal decisions, termination policies, and compliance with U.S. laws.
- ***In re Shueisha, Inc.***, No. 21-MC-80255-VKD, 2021 WL 5279816 (N.D. Cal. Nov. 12, 2021). A Japanese publisher used Section 1782 to identify parties suspected of selling unauthorized electronic copies of copyrighted comic books, before filing an infringement suit. the publisher obtained discovery from PayPal, Mastercard, Google, and Microsoft.
- ***JSC MCC EuroChem v. Chauhan***, No. 3:17-MC-00005, 2018 WL 3872197 (M.D. Tenn. Aug. 15, 2018). The court authorized the use of Section 1782 to obtain discovery for use in an injunction in aid of arbitration. In granting the application, the court authorized EuroChem to take depositions and compel the production of documents, including emails, bank statements, wire transfer records, contracts, and governance documents. A recent decision of the United States Supreme Court, *ZF Automotive US, Inc. v. Luxshare, Ltd.*, 596 U.S. 619 (2022) held that 1782 discovery is not available for use in a private arbitration. The case does not foreclose, however, the use of 1782 to obtain injunctive relief from a government tribunal in aid of arbitration.

YOUR AGILE TEAM

TO TAKE 1782 DISCOVERY IN NEW YORK



DAVID SLARSKY

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David Slarskey has spent 20 years maneuvering through federal court and arbitration halls, representing a wide variety of clients including foreign companies litigating in the United States, investors, international pharmaceutical companies, funds, and conglomerates. Prior to forming Slarskey LLC, Mr. Slarskey was Counsel in the litigation department of Patterson Belknap Webb & Tyler LLP, and served as a law clerk on the United States District Court for the Eastern District of New York to the Honorable I. Leo Glasser.

Mr. Slarskey is regularly called upon to provide legal commentary to the media on a variety of issues, and has been recognized as a *National Law Journal* "Trailblazer" in litigation and one of *Lawdragon's* "500 Leading Litigators." He served on the New York State Bar Association's "Task Force on the Future of the Legal Profession," and is a two-time awardee of The Legal Aid Society of New York for pro bono efforts. Mr. Slarskey received his J.D. from Stanford Law School, and his B.A. from the University of Pennsylvania.



RENEE BEA

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Renee Bea is a skilled trial attorney with over 18 years of experience representing clients in commercial business, shareholder, and intellectual property litigation. Ms. Bea has notable experience representing investors and insurers in disputes related to investment fraud, fiduciary malfeasance, and deal friction, and a successful track record in federal and state courts throughout the U.S., and extensive experience in trade secret, copyright, and trademark litigation.

Prior to joining Slarskey LLC, Ms. Bea was a founding partner at Singer Bea LLP, and also practiced at Quinn Emanuel and Jones Day. Ms. Bea is committed to supporting entrepreneurship among women of color, both in Guatemala and in her local communities. She has an entrepreneurial spirit and Latin American roots that inspire her to donate her time and expertise to organizations that champion this mission. Ms. Bea received her J.D. from Stanford Law School, and her B.S. from the University of California, Berkeley.



EVAN FRIED

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Evan Fried maintains a wide-ranging litigation practice representing financial services firms, private equity and hedge funds, activist investors, high-net-worth individuals, and law firms in complex commercial litigation, business divorce, investment disputes, professional misconduct, and real estate disputes. He has successfully represented parties in trial, arbitration hearings, and appeals, and provided strategic litigation counseling. Among his recent matters, he tried a five-day arbitration hearing in a dispute between two law firms over a contingency fee from a \$125 million patent settlement, and successfully argued two jointly-heard appeals before the First Department affirming his client's award of \$2.5 million.

Mr. Fried is a noted expert in the field of third-party litigation funding, who recently authored a chapter on "Regulation & Legislation" in Bloomsbury Professional's *The Law and Business of Litigation Finance*. Prior to joining Slarskey LLC, he was a partner at litigation funder 1624 Capital, after practicing at Winston & Strawn. Mr. Fried received his J.D. from New York University Law School, and his B.S. from Cornell University.

YOUR AGILE TEAM

TO TAKE 1782 DISCOVERY IN NEW YORK



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Adam Hollander has more than 15 years of experience successfully representing businesses and investors in class and individual actions raising securities fraud and other shareholder claims in federal and state trial and appellate courts. He has litigated numerous high-stakes securities and shareholder class and derivative actions, serving as a senior member of teams that recovered over \$700 million for investors, playing a key role in high-stakes matters including cases alleging securities claims arising from the catastrophic crashes of Boeing's 737 MAX aircraft; the collapse of the multi-billion-dollar hedge fund Archegos Capital Management; the "Facebook Files" that disclosed extensive wrongdoing and misrepresentations at social-media company Meta and its platforms; Volkswagen's "Dieselgate" emissions-cheating scandal; and the collapse of SunEdison, formerly the world's largest renewable energy company.

Mr. Hollander was previously a partner at Bernstein Litowitz Berger & Grossmann and practiced at Boies Schiller Flexner. He served as a judicial law clerk on the U.S. Court of Appeals for the Second Circuit for the Honorable Barrington D. Parker, Jr., and on the U.S. District Court for the District of Connecticut for the Honorable Stefan R. Underhill. Mr. Hollander received his J.D. from Yale Law School, and his A.B., *magna cum laude*, from Brown University,.




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Ricky Weingarten is a seasoned trial attorney with more than a decade of experience litigating commercial, employment, and civil rights disputes in state and federal court. Since joining Slarskey LLC, he has represented clients in a wide range of complex commercial litigation matters, including breach-of-contract and fee disputes as well as trade secret matters. Recent case successes include obtaining a reversal of the district court's dismissal before the First Circuit in a lawsuit on behalf of academic authors, arising out of a publisher's unfair and deceptive royalty reporting practices; a fee dispute on behalf of a clinical stage pharmaceutical company for a fraction of the original demand; a declaratory judgment action confirming the client's lack of intellectual property misappropriation and allowing the client to freely engage in a new business venture; and appellate victories before the First Department.

Mr. Weingarten started his career defending the City of New York and its law enforcement agencies in civil rights lawsuits, serving as lead counsel in several federal jury trials all resulting in full defense verdicts. He also served as a law clerk in the United States District Court for the Eastern District of New York to the Honorable Vera M. Scanlon. Before joining Slarskey LLC in 2021, Mr. Weingarten worked as an associate at Phillips Lytle LLP, where he represented banks, financial services providers, individuals, and not-for-profit organizations in a range of business and employment-related disputes. Mr. Weingarten received his J.D. from Brooklyn Law School, and his B.A. from the University of Delaware.



Slarskey LLC is a New York-based litigation boutique. We bring a sophisticated, practical, and relentless approach to dispute resolution, always keeping our clients' needs and business realities at the forefront of our strategy.

Our philosophy and practice emphasize a firm, fair, and focused approach to litigation.

We aim to sharpen the facts and the law, and develop credibility in the eyes of our adversaries and the courts. Experience tells us that this is the best way to achieve our clients' objectives. We prepare every case expecting it to go to trial, while being ready to secure an equitable and appropriate outcome whenever possible. Clients tell us that our commercially minded, personalized, and efficient approach to determining case strategy sets us apart from other firms, as does our ability to craft a compelling narrative and serve as zealous advocates for those we represent.

We consider it a privilege to advocate for great clients. In every interaction, we work to make sure our clients are heard, understood, respected, and protected. We are committed to providing an unmatched level of client service and representation, and our dedication to unparalleled service extends beyond the courtroom: it is fundamental to our culture of continuous improvement. We seek out client feedback on a regular basis, and that feedback guides us in refining our approach, enhancing our services, and maintaining the highest standards of client care.

