

**Kobre & Kim's Cross-Border  
Disputes Team**

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## Russian Litigants Can Still Access Critical Legal Tools in U.S. Courts

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**Despite the current state of relations between the United States and Russia, Russian litigants can still expect to receive a fair hearing if they need to pursue claim in U.S. courts as part of their global disputes. We outline where litigants have seen successes in recent months, opening the door for others to obtain evidence and leverage powerful U.S. legal tools.**

Despite the current state of relations between the United States and Russia, Russian individuals and companies with legitimate global business interests still need to litigate their disputes with parties overseas in jurisdictions around the world.

Russian parties hoping to gather evidence, uncover assets and pursue claims in the U.S. are still receiving fair hearings – and often succeeding – in U.S. courts.

### **U.S. Courts Are Handing Wins to Russian Litigants**

Since the onset of the armed conflict in Ukraine in February 2022, U.S. courts have heard and adjudicated multiple cases filed by Russian parties. These concern, among others, applications for [Section 1782 discovery](#), which gives applicants access to powerful discovery tools (including the right to subpoena documents and compel deposition testimony under oath) against witnesses and other targets located in the U.S., in aid of non-U.S. proceedings.

Notably, several U.S. federal district judges have granted these applications despite counterparties arguing that U.S. sanctions against Russia restrict the discovery available for Russian litigants.

These cases include:

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- **National Bank Trust (NBT)**, a bank owned by the Russian Central bank, was granted three separate Section 1782 requests before two different U.S. federal courts.
- In the District of Connecticut, NBT was granted discovery from a target located in Connecticut in connection with NBT's efforts to enforce a US \$900 million judgment from England. The target opposed the application, claiming it "violates the letter and spirit of U.S. sanctions." In March 2023, the court disagreed and allowed the discovery to proceed.
- In the Southern District of New York (SDNY) in April 2023, NBT was granted discovery in support of proceedings in the British Virgin Islands (BVI). The judge rejected a target's

objection that "applicable sanctions may otherwise make it practically impossible for NBT to proceed with its claim in a BVI court."

- Also, in the SDNY, NBT was permitted to subpoena three intermediary banks in New York to trace funds in a billion-dollar fraud case. The targets challenged the discovery by reason of the Russian invasion of Ukraine, but they were dismissed by the judge.
- **Bank Otkritie**, a Russian commercial bank, obtained discovery in the SDNY in July 2022 against three intermediary banks to demonstrate asset concealment by the debtor.
- **JSC "INGTORGSTROY"**, the successor of a Russian bank as to its claims of US \$17 million in debt from a bankrupt Russian mining company, obtained discovery in the SDNY in November 2022 to investigate asset concealment and improper fund transfers by entities and individuals associated with the beneficial owners of the company.

As the above shows, U.S. courts are still open to ruling in favor of Russian litigants. While this window of opportunity is open, litigants can take concrete steps to further bolster their chances of success as they formulate their U.S. and global legal strategy, including by:

- Strategizing how to best leverage U.S. legal tools in jurisdictions around the world, **including offshore** and Cyprus. Many counterparties in disputes involving Russian litigants may hold assets or interests in jurisdictions such as the Cyprus, Cayman Islands and the British Virgin Islands, requiring a careful analysis of how to best design a multijurisdictional campaign.
- Leveraging conflict-free counsel to work with an existing team to best accelerate proceedings against any party, including major financial institutions. This is especially critical for seeking discovery requests from U.S. correspondent banks.

Russian parties who need to file claims in the U.S., including applications to seek discovery and trace assets, should find that U.S. courts are still a viable venue.

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## About Kobre & Kim

Kobre & Kim is a global law firm that focuses on cross-border disputes and investigations, often involving fraud and misconduct. Our team:

- Represents major corporations, investment funds and portfolio companies around the world – including Russia and other CIS countries – to litigate high-stakes trials and other commercial disputes adverse to major financial institutions and other market constituents.
- Has deep experience as lead counsel in prominent enforcement actions, including those involving national security and economic sanctions, securities law, market manipulation, bribery and corruption, antitrust and competition, asset forfeiture, money laundering, extradition, fraud and other misconduct.
- Offers deep experience coordinating strategies across jurisdictions, often involving clients, assets and adversaries in the PRC and other Asian countries, with lawyers admitted across the U.S., Asia, UK, EMEA, Latin America and key offshore financial centers.