



Gabriela Ruiz, Martin De Luca and Scott Nielson on Deploying U.S. Discovery in Brazil

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For litigants and parties in Brazil, the broad scope of U.S. discovery may come as a surprise. Even though the U.S. Supreme Court recently foreclosed Section 1782 discovery when the sole foreign proceeding involved is a private international arbitration, there are still ways Brazilian litigants can leverage U.S. discovery opportunities, as Kobre & Kim's Gabriela Ruiz, Martin De Luca and Scott Nielson explain in an article for *Law360*.

Brazilian discovery tends to be slow and narrow, with litigants having to specify each individual document requested. In contrast, U.S. discovery is far-reaching, often reaching bank records, records from private equity firms doing business in Brazil, depositions of key witnesses and records from social media companies. These comparative advantages have not diminished.

While private international arbitrations are off limits, the door is still open in the context of investor-state arbitrations and parties litigating in multiple fora. Obtaining U.S. evidence can also assist in foreign law enforcement proceedings. Lastly, U.S. discovery has global reach, and there are strategies to manage protective orders aimed at limiting the use of this discovery. Working with practitioners familiar with both U.S. and Brazilian litigation will be key to maximizing value and speeding up success.

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