

Wasserman on Transnational Class Actions

Rhonda Wasserman, who teaches at the University of Pittsburgh School of Law, has posted Transnational Class Actions and Interjurisdictional Preclusion on SSRN. Here is the abstract:

As global markets expand and trans-border disputes multiply, American courts are pressed to certify transnational class actions – i.e., class actions brought on behalf of large numbers of foreign citizens or against foreign defendants. Defendants typically oppose certification by arguing that European courts will not recognize or accord preclusive effect to a judgment in the defendant’s favor. Thus, defendants fear repetitive litigation on the same claim in foreign courts even if they prevail in an American court. In addressing defendants’ arguments, American courts carefully consider the likelihood that an American judgment will be recognized abroad. But they virtually never consider the preclusive effects, if any, that the judgment or court-approved settlement will receive or which country’s preclusion law will determine those effects. The Article identifies and analyzes significant differences between American preclusion law and the preclusion laws of Europe. In light of these important differences, the Article strongly recommends that courts analyze recognition and preclusion issues separately, rather than conflating them.