

Article on Global Class Actions in Canada

Associate Professor Tanya Monestier of the Roger Williams University School of Law has written an article on the willingness of Canadian courts to hear class actions involving a global plaintiff class. It is entitled “Is Canada the New ‘Shangri-La’ of Global Securities Class Actions?” and is forthcoming in 2012 in the Northwestern Journal of International Law and Business. The article is available here from SSRN.

The abstract reads:

There has been significant academic buzz about Silver v. Imax, an Ontario case certifying a global class of shareholders alleging statutory and common law misrepresentation in connection with a secondary market distribution of shares. Although global class actions on a more limited scale have been certified in Canada prior to Imax, it can now be said that global classes have “officially” arrived in Canada. Many predict that the Imax decision means that Ontario will become the new center for the resolution of global securities disputes. This is particularly so after the United States largely relinquished this role last year in Morrison v. National Australia Bank.

Whether Imax proves to be a meaningful precedent or simply an aberration will largely depend on whether the court dealt appropriately with the conflict of laws issues at the heart of the case. No author has yet addressed the conflict of laws complications posed by the certification of global class actions in Canada; this Article seeks to fill that void. In particular, I use the Imax case as a lens through which to canvass the conflict of laws issues raised by the certification of global classes. I look at the difficult questions of jurisdiction simpliciter, recognition of judgments, choice of law, parallel proceedings, and notice/procedural rights that need to be addressed now that global classes have come to Canada.