

Brand on Challenges to Forum Non Conveniens

Ronald A. Brand (University of Pittsburgh School of Law) has posted Challenges to *Forum Non Conveniens* on SSRN.

This paper was originally prepared for a Panel on Regulating Forum Shopping: Courts' Use of Forum Non Conveniens in Transnational Litigation at the 18th Annual Herbert Rubin and Justice Rose Luttan Rubin International Law Symposium: Tug of War: The Tension Between Regulation and International Cooperation, held at New York University School of Law, October 25, 2012. The doctrines of forum non conveniens and lis alibi pendens have marked a significant difference in approach to parallel litigation in the common law and civil law worlds, respectively. The forum non conveniens doctrine has recently taken a beating. This has come (1) in its UK form as a result of decisions of the European Court of Justice, (2) through a lack of uniformity of application throughout the common law world, (3) as a result of legislation and litigation in Latin American countries, and (4) through the misapplication of the forum non conveniens doctrine in cases brought to recognize and enforce foreign arbitration awards. This article reviews those challenges, and considers the compromise reached in 2001 at the Hague Conference on Private International Law when that body was considering a general convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters. It concludes with thoughts on the importance of remembering that compromise and the promise it holds for bringing legal system approaches to parallel litigation closer together.

The paper is forthcoming in the *New York University Journal of International Law and Politics*.