

ALERTS AND UPDATES

U.S. Supreme Court Endorses "Nerve Center" Test to Determine Corporations' State Citizenship, Potentially Affecting California Litigation

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The U.S. Supreme Court's endorsement of the "nerve center" test to identify a corporation's citizenship is likely to have strategic significance for corporate defendants in present or anticipated litigation.

The Supreme Court in *Hertz Corp. v. Friend*,¹ decided on February 23, 2010, reversed a U.S. Court of Appeals for the Ninth Circuit decision, which held that Hertz was a citizen of California for diversity jurisdiction purposes because more of its business activities occurred there than in any other state. The Ninth Circuit made this finding even though the defendant, Hertz, is headquartered in New Jersey and much of its management activity occurs there. As the plaintiff was also a citizen of California, there was no federal diversity jurisdiction. Thus, the case had to proceed in state court. Now, the Supreme Court holds that a corporation's "principal place of business" is "the place where the corporation's high level officers direct, control, and coordinate the corporation's activities."

Plaintiff's lawyers often sue in California—in state court in particular—without the risk of removal to federal court. Because California is the largest economy in the United States, many U.S. corporations have more business activities in California than in any other state. Under the Ninth Circuit rule, all of those corporations could have been sued in California state court and would have been unable to remove the case to federal court. The U.S. Supreme Court's decision changes this rule, concentrating instead on the location of the corporation's "nerve center."

Corporations that are in the early stages of state court litigation as a defendant, or who anticipate being sued in the future, may wish to consider whether removal to federal court is now permissible and strategically advantageous. This ruling is likely to affect individual claims and class actions, because class counsel will no longer be able to rely on the amount of business conducted in a state as a basis to maintain a class action in state court.

For Further Information

If you have any questions about this *Alert* or would like more information, please contact [Rick Seabolt](#), [Oliver Benn](#), any member of the [Commercial Litigation Practice Group](#) or the attorney in the firm with whom you are regularly in contact.

Note

1. *Hertz Corp. v. Friend, et al.*, No. 08-1107 (U.S. Feb. 23, 2010).