

## THE UNITED STATES SUPREME COURT CLARIFIES A CORPORATION'S "PRINCIPAL PLACE OF BUSINESS"

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On February 23, 2010, the United States Supreme Court announced its decision in *Hertz Corp. v. Friend*, 559 U.S. \_\_\_, 130 S. Ct. 1181 (2010). Justice Breyer, writing for the Court, settled a split among the circuit courts as to which test to apply when determining a corporation's "principal place of business" for the purpose of federal diversity jurisdiction.

In *Hertz Corp.*, two California citizens sued Hertz in California state court for violations of California's wage and hour laws. Hertz removed the action to federal court based on diversity of citizenship jurisdiction, asserting that plaintiffs and Hertz were citizens of different States. The plaintiffs contended that Hertz was a California citizen and thus diversity jurisdiction was lacking.

The District Court, following Ninth Circuit precedent, applied the "place of operations" or "total activity" test. Under this test, the court first evaluates the amount of a corporation's business activity State by State. Then, "[i]f the amount of activity is 'significantly larger' or 'substantially predominates' in one State, then that State is the corporation's principal place of business. If there is no such State, then the 'principal place of business' is the corporation's 'nerve center' . . . ." Under this test, the District Court concluded that Hertz Corporation was a citizen of California and that diversity jurisdiction was lacking, and remanded the case to the California state court.

Hertz Corporation appealed the District Court's remand order and the Ninth Circuit affirmed. Hertz Corporation filed a petition for certiorari and the Supreme Court granted writ "in light of differences among the Circuits in the application of the test for corporate citizenship."

The Supreme Court concluded that a corporation's "principal place of business" refers to the corporation's "nerve center," which

the Court identified as "the place where the corporation's high level officers direct, control, and coordinate the corporation's activities." The Court noted that, "[i]n practice it should normally be the place where the corporation maintains its headquarters—provided that the headquarters is the actual center of direction, control, and coordination, *i.e.*, the 'nerve center,' and not simply an office where the corporation holds its board meetings."

The Court cited three reasons for adopting this standard. First, the Court explained that the "nerve center" test was supported by the statutory language of 28 U.S.C. § 1332(c)(1). Second, the Court determined that the "nerve center" test was more straightforward and predictable and that "administrative simplicity is a major virtue in a jurisdictional statute." The Court elucidated that the "nerve center" test would not only assure courts their power to hear a case, but would also benefit plaintiffs when they are deciding whether to file suit in state or federal court. Lastly, the Court reviewed the legislative history of the statute and concluded that it favored the "nerve center" test because it was less complex than the Ninth Circuit approach.

This decision provides guidance when determining a corporation's citizenship for diversity jurisdiction. It is important to note, however, that although the Court favored the "nerve center" test for its simplicity and its straightforward application, it noted that the test would not be perfect. The Court admonished that accepting the occasionally counter-intuitive approach "is the price the legal system must pay to avoid overly complex jurisdictional administration while producing the benefits that accompany a more uniform legal system." The Court thus counseled that "[o]ur approach provides a sensible test that is relatively easier to apply, not a test that will, in all instances, automatically generate a result."