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ALERT

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Supreme Court Settles "Location" of National Bank for Diversity Jurisdiction

On January 17, 2006, a unanimous United States Supreme Court held in Wachovia Bank, N.A. v. Schmidt that, for purposes of accessing federal courts under the current diversity jurisdiction statute, 28 U.S.C.§1348, a national bank is a citizen only of the state in which its main office, as set forth in its articles of association, is located.

Prior to the holding in the Wachovia case, the United States Circuit Courts of Appeals had disagreed on this matter. The 4th Circuit had held in the same case below that, for purposes of diversity jurisdiction, a national bank was located not only in the state where its main office is located, but also in each state in which it has branch operations. The 2nd Circuit had suggested the same in dicta. On the other hand, the 5th Circuit and the 7th Circuit had held that a national bank is located only in the State where its main office is located for such purpose.

In rendering its opinion, the Supreme Court reviewed the enactment and reenactment of the relevant statute and based its holding on its view that Congress intended to treat national banks much like state banks and other state-chartered business corporations for purposes of accessing federal courts on the basis of diversity jurisdiction.

The Supreme Court's reasoning included the following:

- the word "located," as used in the diversity jurisdiction statute and other banking laws, is a "chameleon word" that had "no fixed, plain meaning"
- Congress may well have comprehended that the words "located" and "established," as used in such statute, were synonymous or alternative terms
- the use of both words in the diversity jurisdiction statute is a "coincidence of statutory codification"
- where a national bank is "located" for purposes of venue does not control the meaning of "located" for diversity jurisdiction purposes

The Supreme Court concluded by noting that upholding the decision of the 4th Circuit below would render national banks "singularly disfavored corporate bodies with respect to their access to federal courts", an "incongruous outcome" not intended by Congress.

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