



Report from Tokyo

Globalists tell us that the world is flat, with there being ever greater interdependence, integration and interaction among people and countries in disparate locations. That may be true, but when you pick up your family, profession and dog (in that order) and move 5,000 miles from San Diego to Tokyo, Japan, the world does not look, feel, sound, smell or even taste particularly flat—even if there are more than 600 Starbucks in Japan! Now, six months into a several-year assignment with my firm's Tokyo office, I offer some initial ruminations on life and the law in the land of the rising sun.

What a Trial Lawyer Is Doing in Japan

While notions of the Japanese being non-confrontational remain true at some level, more and more Japanese compa-



nies are affirmatively choosing litigation as a part of their business strategy. Japan's many sophisticated, international companies are regularly involved in high-stakes patent, product liability and trade secret litigation in courts from San Diego to New York. Also,

the same wave of internal investigations that has swept through corporate America has reached Japan's shores in situations ranging from DOJ antitrust inquiries to stock options back-dating examinations. In all of these matters, it is invaluable for Japanese clients to have on-the-ground counsel who can advise them regarding how a jury might react to an argument, how a judge could view a difficult legal issue, or how a federal regulator is likely to approach an investigation.

The Curse of the \$200 Melon

Japan is a country obsessed with perfection: trains that leave exactly when scheduled; meetings to which no one is late; individually wrapped fruit, including \$200 melons that look more decorative than edible. That same sense of perfection can make it difficult for Japanese clients to understand or accept the vagaries of the U.S. justice system. Some client meetings end with an explanation that

yes, the client has the stronger legal position in a dispute with an adversary, but no, that does not mean it will necessarily prevail in court. Of course, that conversation is not unusual with a U.S. client, but in Japan the head scratching is even more pronounced. In some sense it reflects the belief that a stronger product, argument or position is necessarily superior and therefore must prevail.

The Weight of History

Coming from the United States where the news is dominated by the Iraq War and the scandal *de jour*, one is struck in Japan by the continuing primacy of World War II and other historical events in Japan's current political, social, economic and legal debates. Whether Japan's prime minister will visit the Yasukuni Shrine, the memorial for Japan's WWII deceased soldiers. Whether legal remuneration will be made to persons who were forced into corporate labor camps. Whether North Korea's nuclear weapon's test should change Japan's stance against nuclear arms given the horrors at Hiroshima and Nagasaki. The list goes on. Observing Japan's regular view through the WWII prism has been a unique and educational opportunity to this outsider.

Out of the Cocoon

As might be expected, moving out of the comfort of the American cocoon brings a fresh personal and professional perspective. As a lawyer in Japan, you are a unique breed and less loathed than in the United States. Japan has fewer than 25,000 licensed attorneys (*bengoshi*) compared with the more than 1 million in the United States. And with all eyes now fixed on China and the combined Asian economies sharing a starring role on the world stage, living in Asia today brings a sense of being part of an important unfolding story. The biggest personal surprise was seeing that my family's move from San Diego to Tokyo was easier and less stressful than our move from Berkeley to San Diego seven years ago. Remarkably, my wife and two teenagers are happy and glad to be here, proving that you are never too old, or too young, to turn your life upside down and still come out right side up on a flat world. ♪

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