

**SOUTHERN ILLINOIS UNIVERSITY
SCHOOL OF LAW**

Conflict of Laws
Fall 2021

Professor Beyler
Room 236

Syllabus

Casebook: Laura Little, *Conflict of Laws* (2d ed. 2018).

Student Packet: Download from TWEN.

Study Aid: Michael Hoffheimer, *Conflict of Laws: Examples & Explanations* (2010).

Assignments: I call on students in alphabetical order. On your day, you (or a substitute) must be present and ready to discuss the material thoroughly.

Office Hours: Drop in any time, but right after class is the best time.

Exam: The final exam will be three hours long, consisting primarily of long and short essay questions. The Registrar has scheduled the final exam on Thursday, December 2, at 8:15 a.m.

Writing Across the Curriculum: After we study choice of law and forum selection clauses, you will draft these clauses for a client's business contract and we will discuss your drafts in class. Successful completion of this ungraded assignment is required to pass the course. You will work with a classmate as a team. Collaboration within the team is expected; collaboration (or even consultation) with someone outside the team is forbidden and violates the law school honor code.

Bar Exam Question: The faculty is committed to preparing you to pass the bar exam on the first try. I will administer a practice bar exam question sometime in the second half of the course graded on a pass-fail basis with written feedback. You must pass in order to pass the course, so anyone who does not pass on the first try will have to retake the test.

Practice Questions: I enjoy fielding real-world questions. Don't hesitate to ask for help this year or in later years. All you owe me is an e-mail letting me know the final outcome.

TWEN: The TWEN page for this course will have the student packet, syllabus, PowerPoint slides, the writing assignment, and announcements.

Reasons to Take this Course: The following post appeared a few years ago on the ISBA litigation digest. Taking this course will enable you to answer the attorney's questions.

Automobile collision in Missouri in July 2011. Amount in controversy greater than \$75,000. Plaintiff is a citizen of Missouri. Defendant is a citizen of Illinois. The case was filed in Illinois to avoid removal.

Defense counsel has just moved to dismiss the case based upon the Illinois 2-year statute of limitations. It was my belief when the case was filed that the Missouri 5-year statute of limitations would apply based upon the Illinois borrowing statute. However, looking at the case more closely now, it appears the borrowing statute only applies when both parties are not Illinois residents and the action accrued in a foreign jurisdiction.

Defense Counsel believes the claim is barred by the IL SOL. His argument is that a SOL is a procedural question governed by the forum state's laws. My thinking is that the COA is a MO COA, that the IL SOL only applies to IL causes of action.

Am I missing something? Can I dismiss the IL complaint and refile the same in MO? If the judge dismisses the case in IL with prejudice based on the IL SOL, is that going to prevent me from refileing it in MO? Your thoughts would be sincerely appreciated.

More recently, an attorney posted the following question which taking this course will enable you to answer:

An Illinois couple, in an Illinois county bordering Indiana, enter a written contract with an Indiana swimming pool company to install a pool at their Illinois residence. The last sentence of the contract states that "the laws of the State of Indiana shall govern this Agreement and Vigo County, Indiana shall be the venue of any legal proceeding associated with this Agreement." The pool was installed, but significant warranty issues have arisen. The project and all work was performed in Illinois. Are the choice of law and venue provisions in the contract enforceable? Must a lawsuit, if any, be brought in Vigo County, Indiana as opposed to the Illinois county where the work was performed?

Workload Expectations: The American Bar Association standards for accrediting law schools contain a formula for calculating the amount of work that constitutes one credit hour. According to ABA Standard 310(b)(1), "a "credit hour" is an amount of work that reasonably approximates: (1) not less than one hour of classroom or direct faculty instruction and two hours of out-of-class student work per week for fifteen weeks, or the equivalent amount of work over a different amount of time." This is a 3-credit hour class, meaning that we will spend two 75-minute blocks of time together each week. The average reading assignment per class is 23 pages, with a low of 13 pages and a high of 36 pages. Based on my teaching experience, I believe the average student will need to spend 2-3 hours outside of class on these reading assignments in order to prepare for class. To make your class preparation more efficient, I have posted in advance the Powerpoints we will use in class. The slides summarize the facts and legal issues for each case, which should help you in sorting out these matters and enable you to focus on the court's reasoning. In addition, the writing project for this course is to draft a choice of law clause and forum selection clause for a hypothetical business client. This project should require about 4 hours of research and drafting time. The final examination is 3 hours long and should require about 15-20 hours of exam preparation.

Recording of Classes: If you need to view the recording of a class due to illness, absence for a moot court competition, or other good reason, I will gladly give instructor permission.

Learning Objectives: At the end of this course, students will be able to (1) identify conflict of laws issues raised by the facts of typical problems in litigation practice and transactional practice; (2) predict how courts will resolve these conflict of laws issues; (3) make appropriate decisions about forum selection when courts in different states will resolve the conflict of laws issues differently; and (4) use choice of law clauses and forum selection clauses to reduce their clients' legal risks.

Tentative Schedule: Below is a tentative schedule of the material we will cover in each class.

- 1 **Traditional Approach To Torts**
Text 163-67
Alabama Great Southern R.R. Co. (168-74)
Hood (174-80)
Problems 180-82
Problems 187-88
Text 188-93
Uniform Judicial Notice of Foreign Law Act (S2)

- 2 **Traditional Approach To Contracts**
Text 193-98
Linn (198-202)
Problems 202-04
Moses (205-09)
Problems 209-10

- 3 **Traditional Approach To Property & Marriage**
Text 214-17
Hill (217-21)
Problems 221-22
Text 223-26
Problem 226
May=s Estate (227-30)
Catalano (230-35)
Problems & Text 236-40

- 4 **Traditional Approach To Structural Mechanics, Escape Devices & Renvoi**
Text 240-41
Sampson (241-46)
Problems 246-47
Text 247-48
Alabama Great Southern R.R. Co. (248-50)
Levy (250-52)
Problem 252-54
Estate of Damato (254-59)
Problems 259-60

- 5 **Traditional Approach To Public Policy & Domicile**
Text 261
Loucks (261-65)
Raskin (265-69)
Problems 272-73
Text 273-74
Text 274-80
Dorrance's Estate (280-90)
Problems 291

- 6 **The Center of Gravity Approach**
Text 291-92
Babcock (298-302)
Problem 302-03
Text 303-05
Schultz (305-15)
- 7 **Interest Analysis**
Problems 315-16
Lilienthal (316-21)
Problems 322
Bernkrant (322-25)
Problem 325-26
Erwin (326-29)
Problem 329-30
- 8 **Comparative Impairment & The Better Rule of Law**
Text 340
Offshore Rental Co. (340-47)
Problem 347-48
McCann (348-59)
Problems 364-65
Text 365-68
Drinkwater (368-78)
Problem 378
Text & Problem 378-80
- 9 **Second & Third Restatement re Torts**
2d Restatement Tort Provisions (S147-55)
Text 381-87
Townsend (388-99)
Text 399-401
Problems 411
Third Restatement Draft re Torts (S156-57)
- 10 **Illinois Law on Tort Conflicts (I)**
Nelson (S2-5)
Miller (S5-9)
Esser (S9-13)
Spinozzi (S13-19)
Carris (S19)
Cook (S19-20)
Kamelgard (S20-24)

- 11 **Illinois Law on Tort Conflicts (II)**
Laroche (S24-27)
Banks (S27-30)
Burlington, N. & S. F. Ry. Co. (S30-35)
Palmer (S35-40)
Mendez (S40-43)
- 12 **Contract Conflicts under the 2d Restatement**
Text 412-15
2d Restatement Contract Provisions (S154-59)
Hoiles (415-22)
Problems 429
- 13 **Illinois Law on Contract Conflicts**
Lapham-Hickey Steel Corp. (S44-47)
Lee (S47-49)
Emerson Electric (S49-54)
Bridgeview Health Care Center (S54-58)
Bar Exam Problem, Part b (S58-60)
- 14 **Choice of Law Clauses under the 2d Restatement**
Text & Problems (429-34)
Nedlloyd Lines (434-42)
Problems 442-43
Got Junk (443-50)
Problem 450-51
Hodas (451-57)
Problems 457-58
- 15 **Illinois Law on Choice of Law Clauses**
Curtis 1000 (S60-63)
Newell Co. (2d Certified Question, S63-65 & 69-71)
Union Oil Co. (S72-73)
Cromeens, Holloman, Sibert (S73-79)
Freeman (S79-83)
Brown and Brown (S83-85)
Uniform Choice of Law & Forum Act (S85-86)
- 16 **Forum Selection Clauses**
Text 115
Bremen (115-20)
Carnival Cruise Lines (120-28)
Problems 128-29
Calanca (S86-89)
Maher & Assoc. (S89-91)
Dancor Constr. (S91-93)

- 17 **Other Issues & Lex Fori**
 Problem & Text 495
 Problem & Text 501-04
 Ruiz (S93-98)
 Safeco Ins. Co. (S98-101)
 United Farm Family Mut. Ins. Co. (S102-04)
 Text 514-15
 Sutherland (515-23)
 Text 523-24
- 18 **Statutes of Limitation & Procedure**
 Text 555-58
 Duke (559-68)
 Problems 577-79
 Maly (S104-06)
 Illinois Borrowing Statute (S106)
 Coan (S107-08)
 Newell Co. (1st Certified Question, S65-69)
 Nichols (S108-10)
 Sterling Finance Mgt. (S110-14)
 Allianz Ins. Co. (S114-15)
- 19 **Choice of Law in Multiparty Actions**
 Text 588-92
 Bridgestone/Firestone (592-95)
 Problems 606-07
 Avery (S115-21)
 Barbara=s Sales (S121-28)
- 20 **Constitutional Limits On Choice of Law (I)**
 Text 649-53
 Allstate Insurance (653-66)
 Problems 666-67
 Phillips Petroleum (667-76)
 Problem 676-77
- 21 **Constitutional Limits On Door-Closing & Localizing Statutes**
 Hughes (677-80)
 Wells (680-84)
 Ferreri (S128-29)
 Problem 684-85
 Hall (685-92)
 Problem 690-91
 Hyatt II (693-96)
 Hytatt III (TWEN)

- 22 **Choice of Law in Federal Court**
Review of Erie Material from Civil Procedure II
Van Dusen (99-104)
Problems 104
Text & Problem 752-61
- 23 **Extraterritoriality of Federal Law**
Text 803-04
Arabian American Oil Co. (805-10)
Hartford Fire Ins. (811-19)
Morrison (819-29)
Text & Problem 829-31
- 24 **Recognition of Judgments**
Text & Problem 835-43
Fauntleroy (843-48)
Problem 849
Durfee (849-54)
Fall (854-59)
Problems 859-60
- 25 **Recognition of Judgments (II)**
Thomas (860-69)
Problems 869-70
Baker (870-80)
Text & Problem 880-86
- 26 **Illinois Law on Recognition of Judgments**
Uniform Enforcement of Foreign Judgments Act (S129-30)
Uniform Foreign Money-Judgments Recognition Act (S130-32)
Illinois Statutes of Limitation for Judgments (S132-33)
Massie (S133-38)
LaSociete Anonyme Goro (S138-40)
Pinella (S140-43)
Revolution Portfolio (S143-46)
- 27 **Special Rules for Domestic Relations**
Text 887-98
Estin (898-905)
Problems & Text (905-12)
Text 912-16
Florenza (916-22)
Problem 922
- 28 **Exam Review**
Review Problems (S163-64)