

**SOUTHERN ILLINOIS UNIVERSITY
SCHOOL OF LAW**

Conflict of Laws
Fall 2023

Professor Beyler
Room 236

Syllabus

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

Student Packet: Download from D2L.

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

Meeting Time & Location: The class meets from 1:30-2:45 on Mondays and Wednesdays in Room 204. I will have to schedule a makeup class for Labor Day and I might have to schedule another makeup class for a day when I will have to attend an out-of-town meeting. I will poll you about when most students can attend a makeup class, though I usually find that scheduling it for immediately after one of our regular classes works best.

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: My office is in Room 236. My e-mail address is kbeyler@siu.edu. My office phone is 618-453-8716. Drop in my office any time I'm here, but right before or after class is the best time. I will be here most often on Monday and Wednesday from 1:00-5:00. E-mail me for an appointment if you don't find me here.

Exam: The final exam will be three hours long, consisting primarily of long and short essay questions. The exam will take place as scheduled by the Registrar. Your course grade will be based entirely on your final exam score, though you must successfully complete the Writing Across the Curriculum and Bar Exam Practice assignments described below. I will grade the final exam anonymously. The final exam will be open book, but you will not be able to access the internet or use electronic files, so you will need to print out in advance any outlines, notes, checklists, or other items you want to use.

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. Just as you can use form books as a starting point, you may use generative artificial intelligence (such as ChatGPT) as a starting point. However, form books and generative artificial intelligence almost certainly will not address the specific drafting issues I expect you to address. You should

tailor your clauses to the client's specific needs and allow for the possibility that your clauses will be interpreted by courts in other states.

Bar Exam Practice: I will administer a practice bar exam question sometime in the second half of the course and will give you written feedback on your answer.

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.

D2L: The page for this course will have the student packet, syllabus, syllabus attachments, PowerPoint slides, the writing across the curriculum assignment, and announcements.

Reasons to Take this Course: The following post appeared some 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 also enable you to answer:

An Illinois couple, in an Illinois county bordering Indiana, enter [into] 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 PowerPoint slides 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.

Absences: The maximum number of absences is six. Under the Law School’s recently changed attendance rule, I no longer have the power to excuse absences. Only the Associate Dean for Academic Affairs has this power. The attendance rule, in relevant part states, “If the absences allowed under this provision have been exhausted, the Associate Dean for Academic Affairs may grant leave and relief from the regular attendance requirement in extraordinary circumstances, including but not limited to: (1) military service; (2) representing the law school at a moot court, mock trial, law review, or official function; (3) jury duty; (4) religious observances; (5) the birth of a child; (6) the death of an immediate family member to include grandparents; (7) major non-elective surgery or a prolonged hospital stay; or (8) to comply with federal or state antidiscrimination laws, other applicable laws, or SIU policies. Students must provide proof of the reason for the absence. The Associate Dean for Academic Affairs may consider the reasons why a student exhausted their absences prior to seeking leave, as well as whether the number of classes missed impairs the student’s ability to learn the course content. The Associate Dean for Academic Affairs will not grant leave from the rules requiring regular attendance unless the request shows extraordinary circumstances or an unavoidable circumstance. If leave is not granted, the Associate Dean for Academic Affairs will discuss with the student options for withdrawing from a course and retaking in a future semester.” You probably should discuss the excuse issue with the Associate Dean before you exceed the six-absence maximum so you are not counting on an excuse that the Associate Dean later deems unjustified.

Recording of Classes: If you want to view the recording of a class you had to miss due to illness, a moot court competition, or other good reason, I will gladly give instructor permission and make the recording available. I cannot guarantee that the recording will be available, however, as there have been technical problems with recordings in the past.

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. Students will learn to critically reflect on their professional identity as we discuss cases and problems. Students also will gain an understanding of how conflict of laws rules limit state power over abortion, gun control, surrogacy, and other matters of great social, religious, or moral controversy.

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 (S150-58)
Text 381-87
Townsend (388-99)
Text 399-401
Problems 411
Third Restatement Draft re Torts (S159-60)
- 10 **Illinois Law on Tort Conflicts (I)**
Nelson (S2-5)
Miller (S5-9)
Esser (S9-13)
Spinozzi (S13-18)
Carris (S19)
Cook (S19-20)
Kamelgard (S20-23)

- 11 **Illinois Law on Tort Conflicts (II)**
Laroche (S23-26)
Banks (S26-30)
Burlington, N. & S. F. Ry. Co. (S30-34)
Palmer (S35-39)
Mendez (S40-42)
- 12 **Contract Conflicts under the 2d Restatement**
Text 412-15
2d Restatement Contract Provisions (S161-65)
Hoiles (415-22)
Problems 429
- 13 **Illinois Law on Contract Conflicts**
Lapham-Hickey Steel Corp. (S43-467)
Lee (S46-47)
Emerson Electric (S48-53)
Bridgeview Health Care Center (S53-57)
Bar Exam Problem, Part b (S57-59)
- 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 (S59-61)
Newell Co. (2d Certified Question, S61-63 & 67-70)
Union Oil Co. (S70-71)
Cromeens, Holloman, Sibert (S71-77)
Freeman (S77-81)
Brown and Brown (S81-83)
Uniform Choice of Law & Forum Act (S83-84)

- 16 **Forum Selection Clauses**
Text 115
Bremen (115-20)
Carnival Cruise Lines (120-28)
Problems 128-29
Calanca (S84-87)
Maher & Assoc. (S87-89)
Eckhardt (S89-95)
Dancor Constr. (S95-97)
- 17 **Other Issues & Lex Fori**
Problem & Text 495
Problem & Text 501-04
Ruiz (S97-102)
Safeco Ins. Co. (S102-05)
United Farm Family Mut. Ins. Co. (S105-08)
Text 514-15
Sutherland (515-23)
Text 523-24
- 18 **Statutes of Limitation & Procedure**
Text 557-58
Duke (559-68)
Problems 577-79
Maly (S108-10)
Illinois Borrowing Statute (S110)
Coan (S110-11)
Newell Co. (1st Certified Question, S63-67)
Nichols (S112-13)
Sterling Finance Mgt. (S113-18)
Allianz Ins. Co. (S118)
- 19 **Choice of Law in Multiparty Actions**
Text 588-92
Bridgestone/Firestone (592-95)
Problems 606-07
Avery (S119-25)
Barbara's Sales (S125-31)
- 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 (S131-32)
Problem 684-85
Hall (685-92)
Problem 690-91
Hyatt II (693-96)
Hytatt III (S168-72)
- 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 (S132)
Uniform Foreign Money-Judgments Recognition Act (S133-35)
Illinois Statutes of Limitation for Judgments (S135-36)
Massie (S136-41)
LaSociete Anonyme Goro (S141-43)
Pinella (S144-46)
Revolution Portfolio (S146-49)

27 **Special Rules for Domestic Relations**

Text 897-98

Estin (898-905)

Problems & Text (905-12)

Text 912-16

Florenza (916-22)

Problem 922

28 **Exam Review**

Review Problems (S166-67)