Course Description

If a lawsuit filed in a given state’s court involves only parties from that state, and all of the events giving rise to the cause of action occurred within that state’s boundaries, then the state court will simply proceed to apply its own state’s substantive law to the controversy. But inject any out-of-state ingredient into the case, and suddenly the question arises whether the court will apply its own state’s substantive law to the dispute or, instead, that of another state (or foreign nation) with which the dispute is connected. Where the substantive laws of the states differ, the choice-of-law decision can be outcome-determinative, thus making an understanding of the field of conflict of laws a powerful and indispensable tool for any attorney.

Moreover, choice-of-law rules are themselves a matter of state law, and they can vary significantly from state-to-state. Thus, if a suit can be brought in more than one state, the attorney trying to decide in which court to file the suit must decide not only which state’s substantive law is most favorable to her client, but also which state’s choice-of-law rules will ensure that her preferred substantive law is in fact applied to the dispute.

Thus the first step in the choice-of-law analysis begins even before the suit is filed, by deciding in which court to file suit. Accordingly, the course begins with a review of the principles governing adjudicative jurisdiction. It then proceeds to examine the traditional choice-of-law rules that continue to be in force in some form in a minority of U.S. states. A substantial portion of the course is then devoted to examining the various deviations from the traditional approach that govern in the rest of the states. After a brief examination of the limits that the U.S. Constitution places on state choice-of-law rules, the course examines the rules governing a state’s recognition and enforcement of judgments rendered by the courts of another state or nation. Finally, the course concludes with an examination of the special problems involved with applying choice-of-law rules in the federal courts.

Required Texts


Supplemental Materials (hereinafter referred to as “Supp.”), available at the University Bookstore.
Course Participation and Grading

In lieu of an exam, this course will have two take-home problem sets. The problem sets will require you to conduct legal research on questions of state and federal law. Problem Set # 1 will require you to produce a memo of approximately 6 pages in length, and Problem Set # 2 will require you to produce a memo of approximately 10 pages in length. You may use any materials that you wish, but you may not receive any outside assistance.

The final grade in this course will be determined by your performance on the problem sets, as well as your participation in class discussion, weighted as follows:

Problem Set # 1 30 percent
Problem Set # 2 50 percent
Class Participation 20 percent

The problem sets will be distributed and are due as follows:

<table>
<thead>
<tr>
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<th>Date Distributed</th>
<th>Date Due</th>
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<tbody>
<tr>
<td>Problem Set # 1</td>
<td>January 26, 2006, 10:30 a.m.</td>
<td>February 3, 2006, 4:00 p.m.</td>
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<tr>
<td>Problem Set # 2</td>
<td>March 2, 2006, 10:30 a.m.</td>
<td>March 10, 2006, 4:00 p.m.</td>
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To avoid a late penalty, completed problem sets must be turned in to Academic Services no later than 4:00 p.m. on the due date. Assignments turned in after that time, unless excused “for cause” by Academic Services for one of the reasons normally allowed for re-scheduled exams (e.g., death or serious illness of a family member) will be subject to a late penalty as set forth in the instructions to each problem set.

As with any law school exam, the problem sets will be graded blindly. To avoid self-identification that will undermine the blind grading policy, do not, under any circumstances, discuss your reasons for or your plans to turn a problem set in late directly with me; all such communications should be made through Academic Services.

If 16 or more students enroll in the course, it will be subject to the mandatory curve now in effect for most courses at the law school. Please note that although the curve does not require me to assign grades below “B,” I am aware of their existence and have been known to assign them in the past when appropriate.

Workload

Although I carefully edit the reading assignments, I probably assign more pages per credit hour than does the average professor at the law school. Please review the syllabus carefully before the end of the add/drop period to determine whether you can handle the workload.
**Cancelled and Re-Scheduled Classes**

Classes are cancelled on the following dates: Thursday, January 5, 2006; Tuesday, January 31, 2006; Thursday, February 2, 2006; Tuesday, March 7, 2006; and Thursday, March 9, 2006. Make-up classes will be held on the following dates: Friday, January 13, 2006 and Friday, February 17, 2006.

**Attendance**

To succeed in this course, it is important that you attend class on a regular basis, as I frequently lecture on matters not discussed in the reading assignments. In accordance with the law school attendance policy, I reserve the right to drop any student who attends fewer than 80 percent of the class sessions. Because attending class is so important to learning this material, I will not sign any course conflict forms.

**Use of Lecture Material**

Lectures are provided for instructional purposes only and remain the intellectual property of the instructor. All other uses are prohibited. Lecture material is covered by copyright (Title 17, United States Code), and lectures may not be audio- or video-recorded without the instructor’s written consent.

**Disability-Related Needs**

To request academic accommodations due to a disability, please contact Disabled Student Services, 448 Schmitz, 206-543-8924 (V/TTY). If you have a letter from Disabled Student Services, please present the letter to me so that we can discuss the accommodations you might need in this class.
Syllabus/Reading List (subject to modification)

I. Jurisdiction to Adjudicate (Jan. 3, 10, and ½ of Jan. 12)
   A. Jurisdiction Over Persons (Text pp. 503-520, 529-537, 545-551 nn. 2-5, 551-569, 569-571 n.3, 646-648; Supp. pp. 1-10)
   B. Jurisdiction Based on Presence of Property in the Forum State (Text pp. 520-527, 572-581, 586-590)
   C. Jurisdiction Over Status (Text pp. 603-611, 621-629, 631-634 nn.4-5, 639-644 nn.1-2)

II. Traditional Approaches to Conflicts (½ of Jan. 12, Jan. 13*, and ½ of Jan. 17)
   A. Principal Traditional Rules (Text pp. 13-54)
   B. Secondary Traditional Rules (Text pp. 54-90)

III. Interest Analysis (½ of Jan. 17, Jan. 19, 24, and 26)
   A. The “False Conflict” Paradigm (Text pp. 91-99)
   B. Deciding Which States Have Interests (Text pp. 99-100, 113-128, 135-176)
   C. Methods for Resolving True Conflict and No-Interest Cases (Text pp. 176-225, 228-229 nn.1-2)

IV. Protection of Justified Expectations (Feb. 7 and ½ of Feb. 9)
   A. Nature of the Policy (Text pp. 231-250; skim Supp. pp. 11-24)
   B. Specific Applications (Text pp. 250-283; skim Supp. pp. 25-44)

V. Other Considerations (½ of Feb. 9 and Feb. 14)
   A. Recognition of Interstate and International Needs (Text pp. 314-343)
   B. Achievement of Justice in the Individual Case (Text pp. 345-359)
   C. Lex Fori (Text pp. 3-6, 9-11 nn.1-3)
   D. Borrowing Statutes (Text pp. 112-113 n.4, 369-380)

* This is a make-up class that will take place in Room 119 at 2:00 p.m.
VI. Constitutional Limits on Choice of Law (Feb. 16)  
A. Due Process (401-410, 413-415, 427-428 n.2, 428-440, 441-445 nn.3-4)  

VII. Recognition and Enforcement of Judgments (Feb. 17†, 21, 23, and 28)  
A. International and Intranational Contexts (Text pp. 677-691; Supp. pp. 53-54)  
B. Possible Bases for Denying Effect to Sister-State Judgments (Text pp. 691-733, 611-616, 733-737, 742-750)  
C. Scope of the Judgment (Text pp. 751-785, 788 nn.2-3, 789-794, 795 n.2)  
D. Special Topic: Same-Sex Marriage, Conflict of Laws, and the Full Faith & Credit Clause (Supp. pp. 55-90)  

VIII. Special Problems in Federal Courts (Mar. 2)  
A. General Principles (Text pp. 799-804, 809-814, 864-869)  
B. Choice of Law (Text pp. 827-843)  

† This is a make-up class that will take place in Room 119 at 2:00 p.m.