Course Materials:

JOHN O. HALEY, FUNDAMENTALS OF TRANSNATIONAL LITIGATION: THE UNITED STATES, CANADA, JAPAN, AND THE EUROPEAN UNION (Lexis/Nexis 2012)

Assignments

Class One – Monday, September 23: Introduction to Course and The Tradition

Pennoyer v. Neff, 95 U.S. 714 (1877)


Class Two – Wednesday, September 25: The Legacy—Quasi-in-Rem, In Rem, and In Personam Jurisdiction


Amoco Overseas Oil Co. v. Compagnie Nationale Algerienne, 605 F.2d 648 (2nd Cir. 1979)


In re the Marriage of Ken Kimura and Fumi Kimura, 471 N.W.2d 869 (Iowa, 1991)
Class Three – Monday, September 30: State Long Arm Statutes


Class Four-- Wednesday, October 2: State Long-Arm Statutes (cont.) and Common Law Variations--Canada

Asahi Metal Industry Co. v. Superior Court, 107 S. Ct.

J. McIntyre Machinery Ltd. v. Nicastro, 564 U.S. __ (2011)

Morguard Investments Ltd. v. De Savoye [1990], 3 S.C.R. 107

Hunt v. T&N plc, [1993], 4 S.C.R. 289

Class Five – Monday, October 7: Civil Law Approaches and Japanese General Forum Rules

International Adjudicatory Jurisdiction in Quebec

Goto v. Malaysian Airlines (Sup. Ct., 2nd P.B., 1982)


K.K. Family v. Miyahara (Sup. Ct., 3rd P.B., Nov. 11, 1997)

Kono v. Kono (Sup. Ct., 2nd P.B., June 21, 1996)

Class Six- Wednesday, October 9: Special Forum Rules: Place of Performance and Place of Tort


Yabutani v. The Boeing Co. (Tokyo Dist. Ct., July 24, 1974)

Ōkuma v. The Boeing Co. (Tokyo Dist. Ct., Mar. 27, 1984)


K.K. Tsuburaya Productions v. Chaiyo Film Co., Ltd. (Sup. Ct., 2nd P.B., June 8, 2001)

Class Seven – Monday, October 14: Special Forum Rules: Place of Property (Attachable Assets and Place of Claim) and Joint Defendants

Loustalot v. Admiral Sales Co. (Tokyo Dist. Ct., June 11, 1959)


K.K. Tsuburaya Productions v. Chaiyo Film Co., Ltd. (Sup. Ct., 2nd P.B., June 8, 2001)


Class Eight – Wednesday, October 16: European Union

EU Regulation 44/2001 (and Lugano Convention)

Group Josi Reinsurance Company SA v. Universal General Insurance Company (UGIC), Judgment of the Court (Sixth Chamber) of 13 July 2000 [Case C-412/98]

Athanasios Kalfelis v Bankhaus Schröder, Münchmeyer, o. and others, Judgment of the Court (Fifth Chamber) of 27 September 1988, Case 189/87
Review Problems

Class Nine – Monday, October 21: Foreign Sovereign Immunity, Act of State, and Foreign Sovereign Compulsion (US)

*The Schooner Exchange v. McFaddon*, 11 U.S. 116 (1812)

The 1952 Tate Letter


*Republic of Argentina and Banco Central de la Republica*

*Banco Nacional de Cuba v. Sabbatino*, 376 U.S.398 (1964)


*International Association of Machinists and Aerospace Workers v. Organization of Petroleum Exporting Countries (OPEC) at al.*, 649 F.2d 1354(9th Cir. 1981)


Class Ten – Wednesday, October 23: Foreign Sovereign Immunity (Canada and Japan) and State Liability (Japan and EU)


Francovich and Bonifaci v. Italy (Joined Cases C-6/90 and C-9/90, E.C. J., Nov. 19, 1991)

Köbler v. Austria (Case C-224/01, E.C.J., Sept. 30, 2003)

Class Eleven-- Monday, October 28: Parallel Litigation — Forum Non Conveniens--US

Piper Aircraft Company v. Reyno,


Nai-Chao v. The Boeing Co., 555 F. Supp 9 (N.D.Cal. 1982)

Myers v. The Boeing Co., (Superior Court of Washington, 1984), aff’d, 115 Wn.2d 123, 794 P.2d 1272 (Wash. 1990)

U.S.O. Corporation v. Mizuho Holding Company, 547 F.3rd 749 (7th Cir. 2008)


Class Twelve – Wednesday, October 30: Stays and Anti-Suit Injunctions (US)

Turner Entertainment Co., v. Degeto Film GmbH,
25 F.3d 1512 (11th Cir. 1994)

Seattle Totems Hockey Club, Inc. v. The National Hockey League, 652 F. 2d 852 (9th Cir. 1981)

Käepa, Inc. v. Achilees Corporation, 76 F 3d 624 (5th Cir. 1996)
Class Thirteen – Monday, November 4: Parallel Litigation—Canada

Amchem Products Inc. v. British Columbia (Workers’ Compensation Board), [1993] 1 S.C.R. 897


Revisit Amchem Products, Inc.

Class Fourteen -- Wednesday, November 6: Parallel Litigation -- Japanese and EU Approaches

Mukoda v. The Boeing Co. (Tokyo Dist. Ct., June 20, 1986)


Gubisch Maschinenfabrik Kg v. Giulio Palumbo, European Court of Justice (Sixth Chamber), 08 December 1987 [1987] E.C.R. 04861, Case 144/86


NO CLASS – Monday, November 11: Veteran’s Day Holiday

Class Fifteen – Wednesday, November 13: Service Abroad


Ackermann v. Levine, 88 F.2d 830 (1986)

Shoei Kako Co., Ltd., Petitioner v. Superior Court the State of California for the City and County of San Francisco, 109 Cal. Rptr. 402 (1973)


Nuovo Pignone, SpA v. Storman Asia M/V, 310 F.3rd 374 (5th Cir. 2002)

Brockmeyer v. May, 383 F.3rd 798 (9th Cir. 2004)


Hiroko Saeki, Inc. v. Ozaki (Tokyo Dist. Ct., 1990)

United States Consular Practice

Class Sixteen – Monday, November 18: Discovery Abroad and in the United States in Aid of Litigation Abroad

Société Nationale Industrielle Aerospatiale v. United States District Court for the Southern District of Iowa, etc., 482 U.S. 522 (1987)

In re Westinghouse Electric Corporation Uranium Contracts Litigation, 563 F.2d 992 (10th Cir. 1977)


Westinghouse Electric Corporation, and Mitsubishi Heavy Industries, Ltd., v. United States of America. 648 F.2d 642 (9th Cir. 1981)


Class Seventeen – Wednesday, November 20: Recognition & Enforcement -- Judgments

Hilton v. Guyot, 159 U.S. 113 (1895)

Ackermann v. Levine, 788 F.2d 830 (2nd Cir. 1986)

Sompotex Limited v. Philadelphia Chewing Gum Corporation, 453 F.2d 435 (3rd Cir. 1971)


Bank of Canada v. Trentham Corporation, 665 F.2d 515 (5th Cir. 1981)

Southwest Livestock and Trucking Company, Inc. v. Ramon, 169 F.3d 317 (5th Cir. 1999)

Class Eighteen – Monday, November 25: Recognition & Enforcement of Judgments – Canada and Japan

Kishinchando Narandas Sadhwani, et. al.,
(Sup. Ct., 3rd P.B., April 28, 1998)

Northcon I v. Mansei Kōgyō K. K., (Sup.
 Ct., 2nd P.B., July 11, 1997)

**Recognition & Enforcement of Arbitral Awards**

*Diapulse Corporation of America v. Carba,
 Ltd., 626 F. 2d 1108 (2nd Cir. 1980).*

*Landegger v. Bayerische Hypotheken und
 Wechsel Bank, 357 F.Supp.692 (S.D.N.Y.
 1972).*

*Fotochrome, Inc. v. Opal Company, Ltd.,
 517 F.2d 512 (2nd Cir. 1975)*

 649, 2010 SCC 19*

*American President Lines, Ltd. v. Subra K.K.,
 (Tokyo Dist. Ct., Oct. 23, 1959)*

*Texaco Overseas Tankship Ltd. v. Okada
 Shipping Co., Ltd., (Osaka Dist. Ct., April
 22, 1983)*

**Class Twenty – Monday December 2: Choice of Court (Prorogation) Agreements—US and Canada**


*Professional Ins. Corp. v. Sutherland, 700 So. 2d 347
 Ala. 1997)*

*O’Brien Engineering Company, Inc. v. Continental
 Machines, Inc., et al., 738 So. 2d 844 (Ala 1999)*

 401, 2005 SC 46*
Class Twenty-one – December 4: Choice of Court (Prorogation) and Arbitration Agreements –
Japan and EU

Tokyo Marine and Fire Insurance Co. v. Royal
Interocian Lines (Sup. Ct., 3rd P.B., 1975)

EU Council regulation No. 44/2001—Jurisdiction and
Enforcement of Judgments, Section 7, article 23

Council Decision 2009/397/EC of 26 February 2009 on the
signing on behalf of the European Community of
the Convention on Choice of Court Agreements

Erich Gasser GmbH v MISAT Srl
Case C-116/12, Judgment of 9 December 2003


Mitsubishi Motors Corporation v. Soler

Dell Computer Corp. v. Union Des Consommateurs,

Rogers Wireless Inc. v. Muroff, [2007] 2 S.C.R. 921,
2007 SCC 35

Compania de Transportes der Me Sociodato Anomia v.
Mataichi K.K. 4 Kakyū minshū (No. 4) 34

Quarterly of the Japan Commercial Arbitration
Association

Allianz SpA formerly Riunione Adriatica di Sicurtà SpA,
Generali Assicurazioni Generali SpA v. West Tankers
Inc., Case C-185/07, Judgment of 10 February 2009