

CONFLICT OF LAWS

Law 7140/17860

Professor Hogue

Fall 2009

(11/6/2009)

Ver. 1.4

OFFICE HOURS: Office hours may be arranged by appointment.

CASEBOOK: David P. Currie, Herma Hill Kay, Larry Kramer, and Kermit Roosevelt, CONFLICT OF LAWS, 7th ed. (Thomson/West 2006).

EVALUATION: Grades in the course are based on a take-home examination administered at the end of the semester.

CLASS ATTENDANCE: Roll is taken at each class. Students are responsible for signing the roll. (Students bear the burden on this. The roll is conclusive and irrefutable as to whether you were present for class or not. You snooze; you lose.)

CLASSES: Tuesdays from 6:00 P.M. – 9:00 P.M. in Room 675.

LAPTOP COMPUTER POLICY: Students are not to use laptops for anything other than note taking or other work directly related to what is happening in class at that time. The only exception is brief answers to occasional emails that need immediate attention. Students who use their laptops for purposes other than class in excess of these limitations should indicate on the roll that they are absent from class. Failure to do so is an Honor Code violation.

Tentative Reading Assignments

Traditional Conflicts Approaches to Torts, Contracts, Wills, Property, etc.

1. August 18 pp. 2 – 39 and READ: Fitts v. Minnesota Mining & Manufacturing Co., 581 So. 2d 819 (1991) and General Telephone Company of the Southeast v. Trimm, 252 Ga. 95, 311 S.E.2d 460 (1984)

2. August 25 pp. 39 – 90; and READ: Alexander v. General Motors, 219 Ga. App. 660, 466 S.E.2d 607 (1995) [note that the dissent most fully explains the factual background of the case]; and Alexander v. General Motors, 267 Ga. 369, 478 S.E.2d 123 (1996) (This class deals with choice of law and litigation strategy in a Georgia context.)

MODERN APPROACHES TO CHOICE OF LAW

3. September 1 pp. 91 – 155

4. September 8 pp. 155 -- 204

5. September 15 pp. 204 -- 266

6. September 22 pp. 266 --315and READ: *Dowis v. Mud Slingers, Inc.*, 279 Ga. 808, 621 S.E.2d 413 (2005) and *In re Air Crash Disaster at Sioux City*, 734 F.Supp. 1425 at 1434n. 15 (This is a very short reading; N.B. only the text at the footnote and the footnote itself is assigned.)

THE CONSTITUTION AND CHOICE OF LAW

7. September 29 pp. 316 – 377

Omit Chapter 4 Jurisdiction of Courts (pp. 380 – 476)

RECOGNITION OF JUDGMENTS

8. October 6 pp. 477 – 569

SPECIAL PROBLEMS OF CHOICE OF LAW, JURISDICTION, AND RECOGNITION OF JUDGMENTS IN DIVORCE INTERSTATE AND INTERNATIONAL CHILD CUSTODY, AND DECEDENTS' ESTATES

9. October 13 pp. 570 -- 617

10. October 20 pp. 617-626 and Re-read *Hughes v. Fetter*, pp. 356ff (or, and preferably, read the full case [it's not long] at 341 U.S. 609. Then read: (1) *Chambers v. Ormiston*, 935 A.2d 956 (Rhode Island, 2007); (2) *C.M. v. C.C.*, 21 Misc.3d 926, 867 N.Y.S.2d 884 (N.Y. Sup. 2008); (3) *O'Darling v. O'Darling*, 188 P.3d 137 (Okla.,2008). And pp. 626-666.

CHOICE OF LAW ISSUES IN FEDERAL COURT

11. October 27 In Chapter 7 omit pp. 667 – 744 and **READ pp. 744 – 749** and omit pp. 749 - 783 and READ: *Roofing and Sheet Metal, Inc. v. La Quinta*, 689 F.2d 982 (11th Cir. 1982) and Hogue, “Law in a Parallel Universe: Erie’s Betrayal, Diversity Jurisdiction, Georgia Conflict of Laws Questions in Contracts Cases in the Eleventh Circuit, and Certification Reform,” 11 *Ga. St. U. L. Rev.* 531 (1995). Consider the effect of constitutional and statutory solutions -- GA CONST Art. 6, § 6, ¶ IV

The Supreme Court shall have jurisdiction and authority to answer any question of law from any state appellate or federal district or appellate court.

(Laws 2003, Act 165, § 1, ratified November 2, 2004; implemented by Ga. Code Ann. § 15-2-9)

INTERNATIONAL CONFLICTS

12. November 3 pp. 784 -- 893

13. November 10 N.B.--BE SURE TO NOTE THE ADDITIONAL READING FOLLOWING THE PROBLEM THAT IS PART OF THIS ASSIGNMENT

Also, class evaluation will be conducted after the first hour of class. The evaluation is conducted online. You can take do the evaluation on laptops in class or will be given the opportunity to do it in the computer lab. Your participation in the evaluation process is strongly encouraged since individual professors and the Deans read the evaluations and that the faculty takes them into account in making promotion and tenure decisions.

(This was Question 2 from the Spring 2009 Conflicts exam:

Read Abebe-Jira v. Negewo, 72 F. 3d 844 (11th Cir. 1996); the facts for this question are based on that case. Then, reread the last paragraph of Note (10) on page 796 of your casebook to refresh your recollection about the Alien Tort Statute now known as the Alien Tort Claims Act. Assume that Abebe-Jira is not overruled by Sosa [cited and discussed in Note (10)] which left the door “ajar” to allow in under the Act such claims as those Abebe-Jira presented. Abebe-Jira upheld an award for torture and cruelty under Alien Tort Claims Act (a recovery beyond the three actions that were generally recognized in Sosa as infractions of the law of nations at the time of the law’s enactment: piracy, offenses against ambassadors, and violations of safe conducts).

Abebe-Jira rejected the defendant’s contention that the political question doctrine barred an action against him. The case was not appealed.

For the purposes of this question, however, further assume that it had been appealed and that you are appointed by the Supreme Court to represent Negewo. (Pretty cool, huh?) With very little prodding from the Obama Administration, the State Department submitted a letter to the Court stating that it had no objection to U.S. Courts ruling on acts perpetrated by alleged government torturers such as Negewo.

The Court directs you to prepare a brief on Negewo’s behalf addressing two issues—1) the applicability of the act-of-state doctrine and 2) the applicability of the Bernstein exception. Write the brief.

Don’t write a brief, but come prepared to discuss the issues raised by this question.

**Read the following parts of Chapter 4 Jurisdiction of Courts:
pp. 380-389; 404-405 (Note 3); and 423-476**

**14. November 17 (Last class) REVIEW (If time permits)
Take-Home Final**