## CONTENTS

### Acknowledgments

xxiii

### Introduction

xxv

### CHAPTER 1 PERSONAL JURISDICTION AND FORUM CHOICE

1

#### A. Background on Personal Jurisdiction in the United States

3

1. Evolution of the Doctrine

4

2. Service of Process

6

#### B. The General Jurisdiction/Specific Jurisdiction Distinction

7

*Goodyear Dunlop Tires Operations v. Brown*

7

Notes on *Goodyear Dunlop*

11

#### C. Minimum Contacts and Fairness Factors

14

*Daimler AG v. Bauman*

14

Notes on *Daimler*

18

*Bristol-Myers Squibb Co. v. Superior Court of California*

19
Notes on Carnival Cruise Lines and Forum Selection Clauses Generally

   a. Subject Matter Jurisdiction
   b. The Political Question Doctrine
   c. Foreign Sovereign Immunity
      26 Department of State Bulletin 984 (1952)
      Republic of Austria v. Altmann
      Notes on Altmann
   d. The Act of State Doctrine
      Banco Nacional de Cuba v. Sabbatino
      Notes on Sabbatino
      Perspective on the Domestic and International Forum-Shopping System

CHAPTER 2    HORIZONTAL CHOICE OF LAW METHODOLOGY: CHOOSING AMONG LAWS GOVERNING CONDUCT 163
A. Restatement (First) of Conflict of Laws 166
   1. Torts 168
      a. Unintentional Torts
         Alabama G.S.R.R. Co. v. Carroll
         Notes on Carroll
         Laboratory Corp. of America v. Hood
         Notes on The Restatement Sections and Hood
      b. Intentional Torts
         Dominican Republic v. AES Corporation
         Notes on Dominican Republic v. AES Corporation
         Perspective on Proof of Foreign Law
         Perspective on Raising and Preserving Conflict of Laws Issues in Litigation
   2. Contracts 193
      Linn v. Employers Reinsurance Corp.
      Notes on Linn and Restatement Principles Governing Contract Formation and Validity Questions
      Moses v. Halstead & Allstate Insurance Company
      Notes on Moses v. Alstead & Allstate Insurance Co.
      Sturiano v. Brooks
      Notes on Sturiano v. Brooks
Contents

Babcock v. Jackson 298
Notes on Babcock v. Jackson 301
C. Governmental Interest Analysis 303
   1. False Conflicts 305
      Schultz v. Boy Scouts of America, Inc. 305
      Notes on Schultz v. Boy Scouts of America 313
   2. Apparent or True Conflicts 316
      Lilienthal v. Kaufman 316
      Notes on Lilienthal 320
      Bernkrant v. Fowler 322
      Notes on Bernkrant 324
   3. No Interest or Unprovided-for Cases 326
      Erwin v. Thomas 326
      Notes on Erwin 328
   4. Experimenting with Balancing Interests 330
      D’Agostino v. Johnson & Johnson, Inc. 330
      Notes on D’Agostino 335
      Rowe v. Hoffmann-La Roche 335
      Notes on Rowe 338
D. Comparative Impairment 340
   Offshore Rental Company v. Continental Oil Company 340
   Notes on Offshore 345
   McCann v. Foster Wheeler LLC 348
   Notes on McCann and Critiques of Comparative Impairment 358
   CRS Recovery, Inc. v. Laxton 359
   Notes on CRS Recovery 363
E. Better Rule of Law 365
   Drinkwater v. American Family Mutual Insurance Company 368
   Notes on Drinkwater and the Better Rule of Law Approach 375
   Perspective on Jurisdiction-Selecting and Law-Selecting
   Orientations in Choice of Law 378
F. Restatement (Second) of Conflict of Laws 381
   1. Introduction 381
   2. Torts 386
      Townsend v. Sears, Roebuck and Company 388
      Notes on Townsend v. Sears 397
      Perspective on Dépeçage 399
### 3. Contracts

#### a. Contracts Without a Choice of Law Clause

- *Hoiles v. Alioto*  
  - Notes on *Hoiles*
- *Naghiu v. Inter-Continental Hotels Group, Inc.*  
  - Notes on *Naghiu*

#### b. Contracts with a Choice of Law Clause

1. Section 187
   - *Nedlloyd Lines B.V. v. Superior Court of San Mateo County*  
     - Notes on *Nedlloyd*
   - *1-800-Got Junk? LLC v. Superior Court of Los Angeles County*  
     - Notes on *Got Junk*
   - *Hodas v. Morin*  
     - Notes on *Hodas* and Assisted Reproduction Technology Regulation
   - *Edward DeSantis v. Wackenhut Corporation*  
     - Notes on *DeSantis v. Wackenhut*

#### (2) Other Approaches to Choice of Law Clauses: The UCC, Specific State Statutes, and Rome I

#### 4. Property

  - Notes on *Farmers Exchange Bank*

#### 5. Marriage

- *In re Farraj*  
- *McPeek v. McCardle*  
- Notes on *Farraj* and *McPeek*

#### 6. Structural Mechanics and Escape Valves

#### a. Substance and Procedure

- *Boyd Rosene and Assoc., Inc. v. Kansas Mun. Gas Agency*  
  - Notes on *Rosene*
- *Ford Motor Company v. Leggat*  
  - Note on *Ford Motor Co. v. Leggat*

#### b. Characterization

- *Waddoups v. The Amalgamated Sugar Company*
### Contents

Notes on *Waddoups* 499  
c. *Renvoi* 501  
d. *Public Policy* 502  
e. *Domicile* 503  
   *Mzamane v. Winfrey* 505  
   Notes on *Mzamane* 513  

G. *Lex Fori* 514  
   *Sutherland v. Kennington Truck Service, Ltd.* 515  
   Notes on *Sutherland* and *Lex Fori* 520  

H. *Hybrid Approaches in the Courts* 523  
   1. *Pennsylvania* 524  
      *Budget Rent-a-Car System, Inc. v. Chappell* 524  
      Notes on *Budget* and the *Pennsylvania Hybrid Approach* 528  
   2. *New York* 530  
      *Bakalar v. Vavra* 530  
      Notes on *Bakalar* and the *New York Approach* 535  
   3. *Hawaii* 538  
      *Mikelson v. United Services Automobile Ass’n* 538  
      Notes on *Mikelson* and the *Hawaii Approach* 542  

I. *Critiques of Existing Choice of Law Approaches* 544  
   Perspective on Complexity in Choice of Law 544  
   *Dowis v. Mud Slingers, Inc.* 548  
   Notes on *Dowis* and Choosing the Optimal Methodology 551  
   Perspective on Rules and Standards 554  

J. *Statutory Choice of Law Rules* 556  
   1. *Statutes of Limitation* 557  
      *Duke v. Housen* 559  
      Notes on *Duke v. Housen* 565  
      *DeLoach v. Alfred* 569  
      Notes on *DeLoach v. Alfred* 573  
      *Chang v. Baxter Healthcare Corporation* 574  
      Notes on *Chang* 576  
   2. *Comprehensive Choice of Law Rules* 579  
      a. *State Codes* 579  
      b. *A Federal Choice of Law Code* 581  
         Notes on *A Federal Choice of Law Code* 582  
         Perspective on Race to the Bottom and Coordinated Choice of Law Rules 584
K. Multiparty Actions
   1. Overview
   2. Multidistrict Litigation and Class Action Cases
      - In the Matter of Bridgestone/Firestone, Inc.
      - In re Vioxx Products Liability Litigation
      Notes on Bridgestone/Firestone and Vioxx

L. Internet Choice of Law Issues
   1. Unilateral Decisions
      - LICRA and UEJF v. Yahoo! Inc.
      Notes on Yahoo!
      - Jeri-Jo Knitwear, Inc. v. Club Italia, Inc.
      Notes on Jeri-Jo
      - Barcelona.com, Inc. v. Excelentisimo Ayuntamiento de Barcelona
      Notes on Barcelona.com
   2. Multilateral Choice of Law
      - Evelyn Clark v. Experian Information Solutions, Inc.
      Notes on Clark

M. Restatement (Third) of Conflict of Laws

N. International and Comparative Choice of Law Issues
   Perspective on the Relationship Between International Law and Conflict of Law Doctrines
   1. Routine Choice of Law in International Cases
   2. International Treaties Governing Choice of Law Matters
      Notes on Forestal
   3. Comparative Material: The European Union
      Perspective on Taking Stock—A Retrospective on the Techniques for Reckoning with Diversity Among Laws

Chapter 3  The Role of the Federal Government

A. Umpiring Principles in the United States Constitution
   1. Constitutional Constraints on Horizontal Choice of Law
      - Allstate Ins. Co. v. Hague
      Notes on Allstate
      - Phillips Petroleum Co. v. Shutts
      Notes on Phillips Petroleum Co. v. Shutts
   2. Constitutional Principles Imposing an Obligation to Provide a Forum
3. Other Roles for Constitutional Regulation 698
   a. The Privilege and Immunities Clause of Article IV, §2 and the Equal Protection Clause of the Fourteenth Amendment 699
   b. Dormant Commerce Clause 700

B. The Federal Government as a Source of Law 702
   1. Federal Supremacy and Preemption 702
      Zschernig v. Miller 703
      Notes on Zschernig 706
      Crosby v. National Foreign Trade Council 707
      Notes on Crosby 713
      American Insurance Association v. Garamendi 714
      Notes on Garamendi 719
   2. The *Erie* Doctrine 722
      *Erie R. Co. v. Tompkins* 722
      Notes on *Erie* 726
      Notes on the Substance/Procedure Dichotomy and the Aftermath of *Erie* 728
      *Hanna v. Plumer* 732
      Notes on *Hanna v. Plumer* 737
      *Semtek Int’l Inc. v. Lockheed Martin Corp.* 740
      Notes on *Semtek* 744
      *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.* 745
      Notes on *Shady Grove* 750
      Perspective on *Klaxon v. Stentor* 752
      Perspective on *Erie*, Forum Shopping, and Stare Decisis in State and Federal Courts 754
   3. Federal Common Law 761
      *Boyle v. United Technologies Corp.* 762
      Notes on *Boyle* and Federal Common Law 767
C. The Relationship between United States and International Laws

1. General Principles

   El Al Israel Airlines, Ltd. v. Tseng
   Notes on El Al

2. Use of International and Foreign Law Principles in United States Cases

   Notes on The Use of International and Foreign Law Principles in United States Cases

D. Extraterritorial Application of United States Law

1. Extraterritoriality and United States Statutes

   EEOC v. Arabian American Oil Co.
   Notes on Arabian American Oil

   Hartford Fire Insurance Co. v. California
   Notes on Hartford Fire

   Morrison v. National Australia Bank Ltd.
   Notes on Morrison

   Perspective on the Expansive Presumption Against Extraterritorial Application of United States Statutes

2. Extraterritoriality and the Constitution

CHAPTER 4  RECOGNITION AND ENFORCEMENT OF JUDGMENTS

Perspective on Claim Preclusion and Issue Preclusion

A. The Full Faith and Credit Principle

   Fauntleroy v. Lum
   Notes on Fauntleroy

B. Qualifications or Exceptions to the Full Faith and Credit Principle

   Durfee v. Duke
   Notes on Durfee v. Duke

   Fall v. Eastin
   Notes on Fall v. Eastin
Contents

Thomas v. Washington Gas Light Co. 860
Notes on Thomas v. Washington Gas Light 867
Baker v. General Motors Corp. 870
Notes on Baker v. GM 878

Perspective on Duplicative Litigation: Placing Preclusion Principles and Full Faith and Credit Law in Perspective 880
Perspective on the Role of the Enforcing State’s Law of Judgments 884

C. Conflicts Among Federal Circuits: Claim Preclusion versus Stare Decisis 886
   United States v. Stauffer Chemical Co. 887
   Notes on United States v. Stauffer Chemical Co. 891
   Perspective on Private Incentives in Judgment Recognition and Enforcement 893

D. Special Rules for Domestic Relations Matters 897
   1. Divorce Jurisdiction: Ex Parte Divorce and Divisible Divorce 898
      Estin v. Estin 898
      Notes on Estin v. Estin and Divorce Jurisdiction 902
   2. Bilateral Divorce 906
   3. Foreign Divorce 907
      Perspective on the Relationship Between Judgments and Marriage 909
   4. Child Custody 912
      a. Domestic United States Issues 912
         In re Forlenza 916
         Notes on Forlenza, the PKPA, and the UCCJEA 920
      b. International Child Abduction 922
         Abbott v. Abbott 924
         Notes on Abbott v. Abbott 930
         Van De Sande v. Van De Sande 931
         Notes on Van De Sande 935
   5. Child Support 938
      Notes on Philipp v. Stahl 946

E. Recognition and Enforcement of Foreign Country Judgments 948
   1. General Principles 951
      Hilton v. Guyot 951
Notes on *Hilton v. Guyot* and the Evolution of Doctrines Governing Recognition and Enforcement of Foreign Country Judgments 954

Perspective on State Law Governing Recognition and Enforcement of Foreign Country Judgments 959

2. The Foreign Judicial System Fairness Exception 964
   *The Society of Lloyd’s v. Ashenden* 964
   Notes on *Society of Lloyd’s v. Ashenden* 967

3. The Public Policy Exception to Presumptive Recognition of Foreign Country Judgments 969
   a. The Scope of the Public Policy Exception 969
      *Southwest Livestock & Trucking Co. v. Ramón* 969
      Notes on *Southwest Livestock* 972
   b. The First Amendment and Libel Tourism 974
      *Matusevitch v. Telnikoff* 975
      Notes on *Matusevitch v. Telnikoff* 978
      Perspective on Libel Tourism and the SPEECH Act 980

4. Special Challenges of International Judgments in Internet Cases 984
   *Yahoo!, Inc. v. La Ligue Contre Le Racisme et L’Antisémitisme* 985
   Notes on *Yahoo!* 990
   *Citron v. Zündel* 991
   Notes on *Citron v. Zündel* 995

F. Comparative Material—The Brussels Regime: Judgment Enforcement and Recognition in the European Union 996
   Notes on The Brussels Regime 999

Table of Cases 1001

Index 1009