

CONFLICT OF LAWS

SYLLABUS, Part I

- Class:** Monday and Wednesday, 12:00-1:30 pm
- Office:** Room 205
- Office Hours:** TBA
- Email:** atweedy01@hamline.edu
- Required Text:** Laura E. Little, *Conflict of Laws: Cases, Materials, and Problems* (2013).
- Recommended:** In addition to the required text, the following books may be useful:
Richman *et al.*, *Understanding Conflict of Laws*; Siegel & Borchers, *Conflicts in a Nutshell*.
- TWEN Site:** There is a TWEN site for this course, and it will contain the syllabus as well as any handouts for the course. The password will be announced on the first day of class.

**Class Rules &
Information:**

A. ATTENDANCE AND PUNCTUALITY.

Regular and punctual attendance is required. Missing more than 4 classes is grounds for being withdrawn from the class. Missing 3 or 4 classes will be factored negatively into your class participation assessment, while attending all classes will be positively factored in. Punctuality is also important, as late arrivals are disruptive to class. Finally, if you have to leave class early for any reason, please let me know in advance.

B. GRADES AND CLASS PARTICIPATION.

Your grades will be primarily determined by an exam at the end of the semester. However, class participation is also important. I reserve the right to increase grades based on consistent and high quality class participation and to lower grades based on excessive absences, multiple late arrivals, lack of preparation or effort in class, violation of the laptop policy, or any other disruption to class, such as talking, whispering, or laughing in class. It is distracting to me

and other students and disrespectful to disrupt the class in any way, and such actions will not be tolerated.

Class participation includes attendance, punctuality, volunteering to answer questions, answering questions when called on, and participation in any in-class exercises, as well as completion of any practice problems.

Class participation may result in raising or lowering your grade up to one half grade (e.g. A- to A).

To facilitate full participation, each of you will have a name card. Display your name card in each class. If you misplace your name card, please provide a substitute. Non-use of your name card will be included in evaluation of your participation. If I mispronounce your name, please let me know.

If you have special circumstances that affect your participation, please let me know so that we can arrange for special accommodations.

If something comes up and you cannot participate on a given day, please email me at least 30 minutes before the class. You have a maximum of two such passes per semester.

C. LAPTOP USE.

Laptops are only permitted for note-taking. If you are discovered utilizing the computer for purposes unrelated to class (such as emailing, participating in chat rooms, surfing the web etc.), your grade for the course may be lowered by one half grade. If you believe you will have difficulty following the laptop policy, bring a pad of paper and your pen to class instead of your computer.

D. COURSE GOALS AND ORGANIZATION:

Conflict of Laws concerns the analysis of legal problems involving people or aspects of transactions that are spread among more than one jurisdiction, such as more than one state of the United States, more than one country, or a federally recognized Indian tribe and a state of the United States. In its most succinct form, the basic Conflicts question is how to allocate authority between different sovereigns. The topics covered include judicial jurisdiction, how to choose among differing laws or choice of law, constitutional limits on choice of law, and recognition and enforcement of judgments. In today's world, a high percentage of legal problems touch on more than one jurisdiction. An understanding of Conflicts issues is essential for effective lawyering. Also, because lawyers often miss Conflicts issues, having a good grasp of the subject matter is a way to have a leg up on the other side. Finally, Conflicts issues arise both in litigation and in transactional planning work. Contracts are often drafted with choice-of-law and choice-of-forum clauses, and it is important to understand the validity and implications of such clauses.

The goals of this course are: (1) to provide you with the practical ability to work with

Conflicts issues, and (2) to explore the theory behind Conflicts issues. Theory plays a prominent role in most Conflicts cases, and Conflicts is one of the few areas where scholars have had a major impact on the substance of the law. The theory we study should help you to think about the nature of law and legal analysis in ways that apply to other subject areas.

The course organization will generally follow the normal progression of a lawsuit. In the normal progression of a lawsuit, major issues typically arise in the following order:

- Judicial jurisdiction: Does a forum have jurisdiction over the subject matter and non-forum litigants?
- Horizontal Choice of Law: When will a court in one U.S. state (or one country) choose to apply foreign law? What are the possibilities for application of “interstate” or international law? When and how can parties to a transaction choose the governing law?
- Constitutional Limits on Choice of Law: In U.S. cases, what limits does the U.S. Constitution impose on a state’s authority to choose its own law?
- Vertical (Federal/State) Choice of Law: In U.S. cases, when will a federal court use federal law and when will it use state law? If it uses state law, which state’s law will it use? Is there a federal choice-of-law approach?
- Recognition and Enforcement of Judgments: Once a court has rendered a judgment, when will the judgment be recognized in another jurisdiction?

E. ASSIGNMENTS:

The first few assignments are listed below. Generally, we will cover all the material assigned for each class during that class, but some adjustments will be made dependent on the pace of the class. All assignments are from the textbook unless otherwise indicated. This syllabus is subject to change.

Class 1: Introduction, pp. xxv-xxxiv;

Personal Jurisdiction & Forum Choice, pp. 3-20

Class 2: Personal Jurisdiction & Forum Choice *cont.*, pp. 20-41, 50-60

- Class 3:** Personal Jurisdiction & Forum Choice *cont.*, pp. 82-92, 159-165;
Choice of Law: Territorial Approach (Torts), pp. 167-177
- Class 4:** Choice of Law: Territorial Approach (Torts) *cont.*, pp. 178-185, 191-96;
Choice of Law: Territorial Approach (Contracts), pp. 196-207;
Choice of Law: Territorial Approach (Property), pp. 217-225
- Class 5:** Choice of Law: Territorial Approach (Marriage), pp. 226-233, 237-243;
Structural Mechanics and Escape Valves (Substance and Procedure), pp. 243-250;
Structural Mechanics and Escape Valves (Characterization), pp. 250-253, 255-256

--More assignments forthcoming--