

Spring 2024

Conflict of Laws

STEPHEN E. SACHS
Harvard Law School

HLS 2033

M.T 1:40–3:10

WCC Room B015

<https://bit.ly/48E3wac>

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T.W 9–10

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OVERVIEW

Welcome! This course meets on **Monday** and **Tuesday** afternoons. (There's also one **Friday** makeup session, indicated below.) Each session starts promptly at **1:40 p.m.** Please have the assigned readings with you, and please complete the first readings before the first class.

Most law school courses approach the law from a single jurisdiction's point of view. In this course, more than one state's laws are always at stake. While we'll discuss conflicts among the laws of foreign nations, we'll focus on American law and on the difficulties of uniting fifty states in a single federal system.

MATERIALS

The main text is **Lea Brilmayer, Jack Goldsmith, Erin O'Hara O'Connor & Carlos M. Vázquez, *Conflict of Laws: Cases and Materials* (8th ed. 2020)**. Other readings are available on the website and in a separate

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coursepack. (I strongly encourage you to get a print copy of the textbook; the e-book's automatic page numbering is off, which can make it infuriating to use.) Feel free to use whichever third-party supplements you find helpful, commercial or noncommercial. Two potentially useful supplements are Michael H. Hoffheimer, *Conflict of Laws: Examples & Explanations* (5th ed. 2023), and Clyde Spillenger, *Principles of Conflict of Laws* (3d ed. 2020). But be careful: not every supplement is equally trustworthy or has been updated to reflect recent changes.

CLASS PARTICIPATION

Class will involve a mix of lecture, cold-calling, and discussion. Attendance is mandatory; to reduce reliance on a single day's exam, class participation will also be part of your grade. Before each class, I'll print out a computer-generated list of students to be cold-called. The algorithm departs from pure randomness only to equalize the burden across students, giving everyone a fair opportunity to be quizzed over the course of the semester. Someone who hasn't yet been cold-called will get twelve times as many "lottery tickets" as someone who's been cold-called once, 144 times as many as someone who's been cold-called twice, and so on. Being chosen on a given day makes you less likely to be chosen in future, but it's no guarantee, and your name could still pop up several days in a row. (You can see how this works by reviewing the sample Excel spreadsheet on the website.)

Class participation grades are based solely on the quality of your answers when cold-called, not on how often you ask questions or sign up for office hours. I'll of course reserve some class time for questions, and you should feel free to ask questions by email, but these things have no impact on your grade. If you don't know an answer when cold-called, just say so! That way I can frame the question in a better way, to elicit what you do know.

After each class, I'll record my contemporaneous impressions of students' cold-call performance on a numeric scale, attempting to adjust for the difficulty of the questions asked. Being absent without excuse on a day when your name is called means losing the points for that day. Scores are averaged across the entire semester, and at the end of the semester each individual average is curved against the class as a whole. So if you think you

“bombed” one day’s questions, don’t worry overmuch; it won’t have a large impact overall.

Each of you has two free “passes” to get out of being on call on a given day. You can use your passes for any reason or no reason. To do so, just fill out the form linked from the website *by 9 a.m. on the day of class*. You don’t have to explain why you’d like to use it, and you probably shouldn’t. (Some previous requests fell in the “too much information” category.)

For emergencies or other special circumstances, just contact me. In particular, no one should feel obliged to come to class unwell. If you’re feeling ill, please just drop me a line, and you’ll be excused without using up a pass. Make sure to contact the Dean of Students’ Office if your absence qualifies for a class recording.

LAPTOPS

Laptops may be used in class, but for class-related purposes only. (Remember that the Internet’s offerings, such as <https://goo.gl/0l9Wzy>, can distract your classmates too.)

OFFICE HOURS

This semester, my office hours are on **Tuesdays and Wednesdays, 9–10 a.m.** Office hours will be held via Zoom. A sign-up sheet with 20-minute blocks is linked from the website. If no one has signed up for a particular slot, feel free to add your name! Or if you’d like to arrange an appointment at another time, just email me. You should also feel free to sign up in groups, invite other students to join you during your block, and so on.

Please don’t worry about a question sounding silly. If it’s troubling you enough for you to send an email or to sign up for office hours, it’s worth asking and getting cleared up!

(Also: HLS will pay for lunches for faculty members and groups of four students or more. While you should feel no obligation to see any more of me than is required by the prescribed number of credit-hours, I’m always happy to meet for lunch. Just email me to propose a time.)

EXAM AND GRADING

This class has a **one-day eight-hour take-home exam**, tentatively scheduled for May 1. The exam will focus on one or more standard issue-spotter questions and may include short-answer questions or additional essays. The exam is strictly limited to **3000 words**. Additional words won't be read—not as a penalty, but as a uniform way of ensuring fairness to students who stayed within the limit. Past exams and model answers are available on the website.

The exam is open-book and open-note. You may use any pre-obtained materials you like, whether electronic or on paper. That said, you're not to access new information during the test itself—such as by searching the Internet, using large language models or other AI systems, or calling your mom. *Your answer must be entirely your own work.*

Because many conflicts doctrines are quite old, various historical materials are on the syllabus. These are intended to help you understand the law *today*. The exam will never ask a question like “How would this case have been decided in 1872?” It only tests on the law as practiced on the date of the exam. Also, if a particular rule or statutory provision hasn't received any substantial attention in class or in the textbook, it's unlikely to appear on the exam. But the exam might require a close reading of a particular case or statute, in which case it'd be designed to afford the time required.

Grades will be based on the exam (80%) and the quality of cold-call answers (20%), following the Law School's standard grading rules.

READING ASSIGNMENTS

You should be ready to discuss each of the required readings in class. When preparing for the exam, though, you can generally restrict your outlining to the main cases. (It's usually unnecessary to outline ‘squib’ cases discussed only in notes, unless they receive meaningful attention in class.)

Instructions for the readings are *in green*. A few readings are *in blue* and marked “*skim*”; you really only need to skim these, looking for the general point rather than for details. Optional readings are listed *in gray*; these are truly optional, for reading in your copious free time. (Preferably in a good armchair by the fire, a snifter of brandy and your loyal spaniel at your side.)

Conflict of Laws

Syllabus	1
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TRADITIONAL APPROACHES

1 Jan. 22 (M): Introduction, torts

1.1	Textbook xxiii–xxv, 1–2, 5–9.	
1.2	Story, <i>Commentaries</i> , ToC, §§ 1–38 (<i>skim</i>)	5
1.3	Caleb Nelson, <i>State and Federal Models of the Interaction Between Statutes and Unwritten Law</i> , 80 U. Chi. L. Rev. 657, 665–79 (2013) (<i>skim</i>).....	21
1.4	<i>Stout v. Wood</i> , 1 Blackf. 71 (Ind. 1820).....	37
1.5	<i>United States v. Davies</i> , 2 Sumn. 482, 25 F. Cas. 786 (C.C.D. Mass. 1837) (No. 14,932) (<i>skim</i>)	39
1.6	<i>State v. Carter</i> , 27 N.J. (3 Dutcher) 499 (Sup. Ct. 1859) (<i>skim</i>).....	41
1.7	Textbook 15–32.	

2 Jan. 23 (T): Contracts, domicile

2.1	Story, <i>Commentaries</i> §§ 231–292 (<i>skim</i>)	47
2.2	Textbook 33–47.	
2.3	Story, <i>Commentaries</i> §§ 41–46 (<i>skim</i>).....	51
2.4	Textbook 48–63.	

Optional:

- Perry Dane, *Vested Rights, Vestedness, and Choice of Law*, 96 Yale L.J. 1191 (1987).

3	Jan. 29 (M): Property, corporations	
3.1	Story, <i>Commentaries</i> §§ 379–380, 424 (<i>skim</i>)	53
3.2	Textbook 79–108.	
3.3	David Nicklaus, <i>27-year Bankruptcy Case Included an Art Fight, a Perjury Conviction, and a Marriage Proposal</i> , St. Louis Post-Dispatch, June 21, 2019, at B1 (<i>skim</i>)	55

Optional:

- Stewart E. Sterk, *Asset Protection Trusts: Trust Law’s Race to the Bottom?*, 85 Cornell L. Rev. 1035 (2000).
- Adam J. Hirsch, *Fear Not the Asset Protection Trust*, 27 Cardozo L. Rev. 2685 (2006).
- Janet Cooper Alexander, *Unlimited Shareholder Liability Through a Procedural Lens*, 106 Harv. L. Rev. 387 (1992).
- Henry Hansmann & Reinier Kraakman, *A Procedural Focus on Unlimited Shareholder Liability*, 106 Harv. L. Rev. 446 (1992).

4	Jan. 30 (T): Wrinkles: renvoi, procedure, penal law	
4.1	Textbook 108–22.	
4.2	Story, <i>Commentaries</i> §§ 556–558 (<i>skim</i>)	57
4.3	Textbook 122–24, 129–32 (<i>skip note 3</i>), 132–36.	
4.4	Story, <i>Commentaries</i> §§ 575–582, 620 (<i>skim</i>)	59
4.5	Textbook 136, 145 (<i>end after note 2</i>), 156–63.	

Optional:

- D. Michael Risinger, *“Substance” and “Procedure” Revisited*, 30 UCLA L. Rev. 189 (1982).

THE “CONFLICTS REVOLUTION”

5 Feb. 5 (M): Public policy and the modern approach

- 5.1 Textbook 146–56, 171–84.
- 5.2 *New York Judge Brands Nazis’ Racial Theories ‘Shocking’ in \$50,000 Lawsuit*, *The Sentinel* (Chi.), June 25, 1936, at 35 (*skim*).....63

Optional:

- Alfred Hill, *The Judicial Function in Choice of Law*, 85 *Colum. L. Rev.* 1585 (1985).

6 Feb. 6 (T): Interest analysis

- 6.1 Caleb Nelson, *State and Federal Models of the Interaction Between Statutes and Unwritten Law*, 80 *U. Chi. L. Rev.* 657, 679–93 (2013) (*skim*).....65
- 6.2 Textbook 184–203.

Optional:

- Larry Kramer, *Rethinking Choice of Law*, 90 *Colum. L. Rev.* 277 (1990).
- Kermit Roosevelt III, *The Myth of Choice of Law: Rethinking Conflicts*, 97 *Mich. L. Rev.* 2448 (1999).
- Douglas Laycock, *Equal Citizens of Equal and Territorial States: The Constitutional Foundations of Choice of Law*, 92 *Colum. L. Rev.* 249 (1992).

7 Feb. 12 (M): Comparative impairment, “better law,” EU

- 7.1 Textbook 203–27.
- 7.2 Rome I Regulation81
- 7.3 Rome II Regulation83

Optional:

- *Cassirer v. Thyssen-Bornemisza Collection Found.*, ___ F. 4th ___, 2024 WL 89381 (9th Cir. Jan. 9, 2024) (No. 19-55616).
- Joseph William Singer, *Pay No Attention to that Man Behind the Curtain: The Place of Better Law in a Third Restatement of Conflicts*, 75 Ind. L. Rev. 117 (2000).
- Note, *Bundled Systems and Better Law: Against the Leflar Method of Resolving Conflicts of Law*, 129 Harv. L. Rev. 544 (2015).
- Ralf Michaels, *The New European Choice-Of-Law Revolution*, 82 Tulane L. Rev. 1607 (2008).

8 Feb. 13 (T): The Second Restatement

- 8.1 Textbook 227–48.
- 8.2 John F. Coyle, William S. Dodge & Aaron D. Simowitz, *Choice of Law in the American Courts in 2021: Thirty-Fifth Annual Survey*, 70 Am. J. Comp. L. 318, 321 (2023) (*skim*).....87
- 8.3 James Grimmelman, *Anarchy, Status Updates, and Utopia*, 35 Pace L. Rev. 135 (2014) (*skim*).....89

Optional:

- Symeon C. Symeonides, *The Judicial Acceptance of the Second Conflicts Restatement: A Mixed Blessing*, 56 Md. L. Rev. 1248 (1997).
- Symeon C. Symeonides, *The Need for a Third Conflicts Restatement (And a Proposal for Tort Conflicts)*, 75 Ind. L.J. 437 (2000).
- David R. Johnson & David G. Post, *Law and Borders: The Rise of Law in Cyberspace*, 45 Stan. L. Rev. 1367 (1996).
- Jack L. Goldsmith, *Against Cyberanarchy*, 65 U. Chi. L. Rev. 1199 (1998).

9 Feb. 19 (M): The incomplete revolution

9.1 Textbook 249–74.

9.2 James Grimmelmann, *Renvoi and the Barber*, 22 Green Bag 2d 109 (2019) (*WARNING: MATH*) 109

Optional:

- Kermit Roosevelt III, *Resolving Renvoi: The Bewitchment of our Intelligence by Means of Language*, 80 Notre Dame L. Rev. 1821 (2005).
- Lea Brilmayer & Daniel B. Listwa, *Continuity and Change in the Draft Restatement (Third) of Conflict of Laws: One Step Forward and Two Steps Back?*, Yale L.J. F., Oct. 22, 2018, at 266.
- Kermit Roosevelt III & Bethan R. Jones, *The Draft Restatement (Third) of Conflict of Laws: A Response to Brilmayer & Listwa*, Yale L.J. F., Oct. 22, 2018, at 293.
- Kermit Roosevelt III, *Certainty vs. Flexibility in the Conflict of Laws*, in *Private International Law: Contemporary Challenges and Continuing Relevance* (F. Ferrari & D. Fernandez Arroyo eds., 2019), <http://ssrn.com/id=3301554>.
- Michael H. Gottesman, *Draining the Dismal Swamp: The Case for Federal Choice of Law Statutes*, 80 Geo. L.J. 1 (1991).

THE CONSTITUTION AND CONFLICTS: JUDGMENTS

10 Feb. 20 (T): Judgment recognition and enforcement

10.1 Stephen E. Sachs, *Pennoyer Was Right*, 95 Tex. L. Rev. 1249, 1255–69 (2017) (*skim*).....125

10.2 Story, *Commentaries* §§ 643–644 (*skim*).....141

10.3 Statutes and Rules on Official Records (*skim*).....143

10.4 Uniform Foreign Money-Judgments Recognition Act (UFMJRA) (1962).....145

10.5 Uniform Foreign-Country Money Judgments Recognition Act (UFCMJRA) (2005).....153

10.6 Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (2019) (*skim*)179

10.7 28 U.S.C. §§ 4101–4105 (SPEECH Act of 2010) (*skim*)193

10.8 Textbook 545–47.

10.9 Documents on Full Faith and Credit (*skim*).....197

10.10 Robert L. Felix & Ralph U. Whitten, *American Conflicts Law: Cases & Materials* 189–91, 205 n.b (5th ed. 2010) (*skim*).....199

10.11 Revised Uniform Enforcement of Foreign Judgments Act (UEFJA) (1964)205

Optional:

- John F. Coyle, *Rethinking Judgments Reciprocity*, 92 N.C. L. Rev. 1109 (2014).
- Stephen E. Sachs, *Full Faith and Credit in the Early Congress*, 95 Va. L. Rev. 1201 (2009).
- David E. Engdahl, *The Classic Rule of Faith and Credit*, 118 Yale L.J. 1584 (2009).

11 Feb. 26 (M): Introduction to personal jurisdiction	
11.1 Textbook 363–64.	
11.2 Story, <i>Commentaries</i> §§ 531–549 (<i>skim</i>).....	211
11.3 <i>D’Arcy v. Ketchum</i> , 52 U.S. (11 How.) 165 (1851).....	215
11.4 <i>Lafayette Ins. Co. v. French</i> , 59 U.S. (18 How.) 404 (1855) (<i>skim</i>).....	221
11.5 <i>Pennoyer v. Neff</i> , 95 U.S. 714 (1878)	225
11.6 Stephen E. Sachs, <i>Pennoyer Was Right</i> , 95 <i>Tex. L. Rev.</i> 1249, 1249–55, 1269–1327 (2017) (<i>skim</i>).....	235
<i>(This one is long, but it’s also the best way I know to introduce you to the field—and you only need to skim.)</i>	

Optional:

- Lea Brilmayer, *Jurisdictional Due Process and Political Theory*, 39 *U. Fla. L. Rev.* 293 (1987).
- Wendy Collins Perdue, *What’s “Sovereignty” Got to Do with It? Due Process, Personal Jurisdiction, and the Supreme Court*, 63 *S.C. L. Rev.* 729 (2012).
- Stephen E. Sachs, *Constitutional Backdrops*, 80 *Geo. Wash. L. Rev.* 1813 (2012).
- James Weinstein, *The Federal Common Law Origins of Judicial Jurisdiction: Implications for Modern Doctrine*, 90 *Va. L. Rev.* 169 (2004).

12 Feb. 27 (τ): Specific Jurisdiction	
12.1 <i>Hess v. Pawloski</i> , 274 U.S. 352 (1927) (<i>skim</i>)	301
12.2 <i>Int’l Shoe Co. v. Washington</i> , 326 U.S. 310 (1945) (<i>skim</i>)	303
12.3 Textbook 403–13.	
12.4 Textbook 381–82 (<i>skim note 1</i>), 392–400.	
12.5 <i>Ford Motor Co. v. Mont. Eighth Jud. Dist. Ct.</i> , 141 S. Ct. 1017 (2021)	309
12.6 Stephen E. Sachs, <i>Originalism and Personal Jurisdiction: Some Hard Questions</i> , Volokh Conspiracy (Dec. 9, 2020) (<i>skim</i>)	325

Optional:

- Andrew D. Bradt & D. Theodore Rave, *Aggregation on Defendants’ Terms: Bristol-Myers Squibb and the Federalization of Mass-Tort Litigation*, 59 B.C. L. Rev. 1251 (2018).

13 Mar. 4 (m): Cross-border activities

13.1 <i>Asahi Metal Indus. Co. v. Superior Court</i> , 480 U.S. 102 (1987) (<i>skim</i>)	329
13.2 <i>J. McIntyre Machinery, Ltd. v. Nicastro</i> , 564 U.S. 1058 (2011)	333
13.3 Textbook 423–25.	
13.4 <i>Calder v. Jones</i> , 465 U.S. 783 (1984) (<i>skim</i>)	357
13.5 <i>Walden v. Fiore</i> , 571 U.S. 277 (2014)	367
13.6 Textbook 425–27.	

Optional:

- Cassandra Burke Robertson, *The Inextricable Merits Problem in Personal Jurisdiction*, 45 U.C. Davis L. Rev. 1301 (2012).
- Alan M. Trammell & Derek E. Bambauer, *Personal Jurisdiction and the “Interwebs,”* 100 Cornell L. Rev. 1129 (2015).

14 Mar. 5 (T): General jurisdiction; jurisdiction *in rem*

14.1 Textbook 374 (*introduction to B*), 427–32 (*skim*).

14.2 *Daimler AG v. Bauman*, 571 U.S. 117 (2014)383

14.3 Textbook 440–41 (*notes 2–3*).

14.4 Brief of *Amica Curiae* Professor Lea Brilmayer, *Daimler AG v. Bauman*, 571 U.S. 117 (2014) (No. 11-965).....395

14.5 Actions *In Personam* and *In Rem*403

14.6 Textbook 445–54.

14.7 *Texas v. New Jersey*, 379 U.S. 674 (1965) (*skim*).....405

14.8 *Mayor & City Council of Balt. v. Balt. Football Club Inc.*, 624 F. Supp. 278 (D. Md. 1986) (*skim*).....415

14.9 Textbook 460–63 (*notes 6–11*) (*skim*).

14.10 James Stern, *Property, Exclusivity, and Jurisdiction*, 100 Va. L. Rev. 111, 125–39, 168–80 (2014) (*skim*).....425

Optional:

- Lea Brilmayer, *How Contacts Count: Due Process Limitations on State Court Jurisdiction*, 1980 Sup. Ct. Rev. 77.
- Lea Brilmayer & Kathleen Paisley, *Personal Jurisdiction and Substantive Legal Relations: Corporations, Conspiracies, and Agency*, 74 Cal. L. Rev. 1 (1986).

Mar. 11 (M): Spring Break

Mar. 12 (T): Spring Break

15 Mar. 18 (M): Jurisdiction, old and new	
15.1 Fed. R. Civ. P. 4(k)	455
15.2 Textbook 400–03 (<i>skim</i>).	
15.3 Textbook 383–92.	
15.4 Textbook 369–74 (<i>skim</i>).	
15.5 <i>Mallory v. Norfolk S. Ry. Co.</i> , 143 S. Ct. 2028 (2023) (<i>skim</i>)	457
<i>(This is also long, but again you only need to skim.)</i>	
15.6 Stephen E. Sachs, <i>Dormant Commerce and Corporate Powers</i> , <i>Volokh Conspiracy</i> (Dec. 9, 2020) (<i>skim</i>)	521
15.7 Textbook 441–42 (<i>note 4</i>).	
Optional:	
<ul style="list-style-type: none"> • Brief of Stephen E. Sachs as <i>Amicus Curiae</i> in Support of Neither Party, <i>Mallory v. Norfolk S. Ry. Co.</i>, No. 21–1168 (U.S. cert. granted Apr. 25, 2022), https://ssrn.com/id=4161031. • Stephen E. Sachs, <i>Dormant Commerce and Corporate Jurisdiction</i>, 2023 <i>Sup. Ct. Rev.</i> (forthcoming 2024), http://ssrn.com/id=4680013. • Stephen E. Sachs, <i>How Congress Should Fix Personal Jurisdiction</i>, 108 <i>Nw. U. L. Rev.</i> 1301 (2014). • Stephen E. Sachs, <i>The Unlimited Jurisdiction of the Federal Courts</i>, 106 <i>Va. L. Rev.</i> 1703 (2020). 	
16 Mar. 19 (T): The effect of a judgment	
16.1 Textbook 501–20.	
16.2 S.B. No. 8 (Tex. 2021) (<i>skim</i>)	525
16.3 Act of July 29, 2022 (Mass.) (<i>skim</i>)	529
16.4 Textbook 533–45, 547–57.	

THE CONSTITUTION AND CONFLICTS: CHOICE OF LAW

17 Mar. 25 (M): Introduction to constitutional choice of law

17.1 Story, *Commentaries* §§ 637–642 (*skim*)533

17.2 Simon Greenleaf, *A Treatise on the Law of Evidence* § 43, at 141–42 (John Henry Wigmore ed., 16th rev. ed., Boston, Little, Brown & Co. 1899) (*skim*).....535

17.3 Restatement (First) of Conflict of Laws §§ 621–625 (*skim*).....537

17.4 Fed. R. Civ. P. 44.1539

17.5 Gary Lawson, *Proving the Law*, 86 Nw. U. L. Rev. 859, 898–900 (1992)541

17.6 Textbook 163–69.

17.7 *Bodum U.S.A., Inc. v. La Cafetière, Inc.*, 621 F.3d 624 (7th Cir. 2010) (*skim*).....545

17.8 Rules of Decision Act563
(Review the Documents on Full Faith and Credit. If your civil procedure course didn't cover Erie R.R. Co. v. Tompkins, then (a) sue your professor for malpractice, and (b) read Textbook 465–75.)

17.9 Textbook 475–78.

17.10 Douglas Laycock, *Equal Citizens of Equal and Territorial States: The Constitutional Foundations of Choice of Law*, 92 Colum. L. Rev. 249 (1992) (*skim*)565

18 Mar. 26 (T): Modern constitutional choice of law

18.1 *Allgeyer v. Louisiana*, 165 U.S. 578 (1897) (*skim*)577

18.2 Textbook 281–92, 292–97 (*skim*), 297–310.

Optional:

- William Baude, *Constitutionalizing Interstate Relations: The Temptation of the Dark Side*, 44 Harv. J.L. & Pub. Pol'y 57 (2021).

19 Apr. 1 (M): Choice of law in class actions

19.1 Textbook 310–16, 364–69.

19.2 Textbook 316–26, 737–57.

Optional:

- Linda Silberman, *The Role of Choice of Law in National Class Actions*, 156 U. Pa. L. Rev. 2001 (2008).

THE CONSTITUTION AND CONFLICTS: SPECIAL TOPICS

20 Apr. 2 (T): Domestic relations

20.1 Textbook 63–65, 65–79 (*skim*).

20.2 *Haddock v. Haddock*, 201 U.S. 562 (1906) (*skim*)583

20.3 Textbook 558–67.

20.4 28 U.S.C. §§ 1738A–1738C (2018)589

20.5 William Baude, *Beyond DOMA: Choice of Law in Federal Statutes*, 64 Stan. L. Rev. 1371, 1371–76, 1382–1414 (2012) (*skim*)595

20.6 Respect for Marriage Act, Pub. L. No. 117–228 (2022)635

Optional:

- William Baude, *Interstate Recognition of Same-Sex Marriage After Windsor*, 8 NYU J.L. & Lib. 150 (2013).
- April White, *The Divorce Colony*, Atavist Mag., Dec. 11, 2015, <https://read.atavist.com/the-divorce-colony>.
- Perry Dane, *Whereof One Cannot Speak: Legal Diversity and the Limits of a Restatement of Conflict of Laws*, 75 Ind. L.J. 511 (2000).

Apr. 8 (M): No class

21 Apr. 9 (τ): Interstate discrimination: credit, privileges, equal protection

21.1 Textbook 326–30, 332 (*notes 1–4*), 333–34 (*notes 6–8*).
21.2 *Corfield v. Coryell*, 6 F. Cas. 546 (C.C.E.D. Pa. 1823) (No. 3,230) (*skim*)639
21.3 *Paul v. Virginia*, 75 U.S. (8 Wall.) 168 (1869) (*skim*)645
21.4 *Saenz v. Roe*, 526 U.S. 489 (1999).....651
21.5 Textbook 339–40, 345–46 (*note 1*), 347–52 (*start with note 4*) (*skim*).

Optional:

- Ann Woolhandler & Michael G. Collins, *Jurisdictional Discrimination and Full Faith and Credit*, 63 Emory L.J. 1023 (2014).

<p>22 Apr. 12 (F) (3:45–5:15 p.m.): Interstate discrimination: dormant commerce, due process</p>

22.1 *Gibbons v. Ogden*, 22 U.S. (9 Wheat.) 1 (1824) (*skim*).....663

22.2 *Willson v. Black Bird Creek Marsh Co.*, 27 U.S. (2 Pet.) 245 (1829) (*skim*).....673

22.3 *United Haulers Ass’n v. Oneida-Herkimer Solid Waste Mgmt. Auth.*, 550 U.S. 330 (2007) (*skim*).....675

22.4 Textbook 352–61.

22.5 Jack Goldsmith & Eugene Volokh, *The Relevance of Ross to Geolocation and the Dormant Commerce Clause*, 102 Tex. L. Rev. Online 30 (2023) (*skim*).....685

22.6 Textbook 288 (*review note 8(c)*).

22.7 *BMW of N. Am., Inc. v. Gore*, 517 U.S. 559 (1996)699

22.8 *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408 (2003).....701

22.9 Seth F. Kreimer, *The Law of Choice and Choice of Law*, 67 NYU. L. Rev. 451, 464–78 (1992) (*skim*).....703

Optional:

- *Cooley v. Bd. of Wardens*, 53 U.S. (12 How.) 299 (1851).

23 Apr. 15 (M): Jurisdiction to tax

23.1 *Union Refrigerator Transit Co. v. Kentucky*, 199 U.S. 194 (1905)719

23.2 *South Dakota v. Wayfair*, 138 S. Ct. 2080 (2018) (slip op.).....727

23.3 *N.C. Dep’t of Rev. v. Kimberley Rice Kaestner 1992 Family Trust*, 139 S. Ct. 2213 (2019) (syllabus) (*skim*).....767

23.4 *Comptroller of Treasury v. Wynne*, 135 S. Ct. 1787 (2015) (*skim*)771

Optional:

- Brannon P. Denning, Due Process and Personal Jurisdiction: Implications for State Taxes (June 18, 2012), <http://taxprof.typepad.com/files/64st0837.pdf>

CLOSING THOUGHTS

24 Apr. 16 (T): Contractual choice of law or forum

- 24.1 Rome I & II Provisions on Party Choice781
- 24.2 Textbook 647–58, 677–81 (*skim*), 681–91, 478–90 (*skim*), 490–93, 696–99 (*stop before section 11.2*), 705 (*notes 4–6*).
- 24.3 Story, *Commentaries* § 645 (*skim*).....783

Optional:

- Larry E. Ribstein & Erin A. O’Hara O’Connor, *From Politics to Efficiency in Choice of Law*, 67 U. Chi. L. Rev. 1151 (2000).
- John F. Coyle, *The Canons of Construction for Choice-of-Law Clauses*, 92 Wash. L. Rev. 631 (2017).
- *Atl. Mar. Constr. Co. v. U.S. Dist. Ct.*, 571 U.S. 49 (2013)
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EXAM

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