Overview: Welcome to Conflict of Laws! Over the course of this semester, we will be covering three subjects: choice of law, jurisdiction, and recognition of judgments. Our class will be primarily domestic focused but I will include an international element to the class given the globalizing nature of law. We will review some efforts by the Hague Convention on Private International Law to harmonize practices.

Our first subject will be a review of jurisdiction thinking particularly about the cross-border nature of jurisdiction in some legal disputes. Our second major subject will be “choice of law”-what law will a court apply in a given case. William Prosser, of tort law fame, wrote in 1953 that “choice of law is a dismal swamp, filled with quaking quagmires, and inhabited by learned but eccentric professors who theorize about mysterious matters in a strange and incomprehensible jargon. The ordinary court, or lawyer, is quite lost when engulfed and entangled in it.”

Prosser’s impression of “choice of law” leaves one with an unfavorable impression of the subject ahead of us. But do not worry. In the next two months, we will pull from the “dismal swamp” the major approaches involved in a court’s choice of law that you will apply in your practice and on the bar exam.

Our final major subject is recognition of judgments. To make sure that we are all starting from the same place, we will review concepts of claim preclusion and issue preclusion from your civil procedure course. From this starting point, we will go on to study the relationship between the Full Faith and Credit Clause and judgments.

Casebook

According to Amazon- This is available at the following ISBN numbers: ISBN-13: 978-0314195814 or ISBN-10: 0314195815

Class Format

Our classes together will be primarily based on close readings of important cases in the field. I will call on students during class to explain different aspects of a case. I will begin each class with a quick review of what we have done in the previous class and our goals for the current class.

Grading

I will be grading you based on one 24-hour take home final exam (65% of your grade), one in-class presentation of a conflict of law case of your choosing (25%) and your meaningful participation in class (10%). I will have a sign up list for presentation of cases with the presentations scheduled for the last day of classes. A major component of each class is discussing the key cases. I expect each of you to read the cases in preparation for the class and to be prepared to answer questions about both the facts of the case and the holdings of the case.

I believe that participation in class is important because most people learn best through active learning rather than passive observation. The first precondition for participation is attendance--I will take attendance in each class. Good participation for the purposes of this class does not mean that you always get the right answer to the question but rather that you are showing a concerted effort to apply an analytical method to answering a question.

Credit Hours for Coursework

In accordance with ABA Standard 310, the College of Law awards one credit hour for experiences that are reasonably designed to involve 50 minutes of classroom or direct faculty instruction and two hours of out-of-class student work per week, or at least the equivalent amount of work for academic activities including simulation, field placement, clinical, and other academic work leading to the award of credit hours.

The Course requirements outlined above with respect to materials and assignments, in my professional judgement, are complex enough in nature that it is expected that the amount of out-of-class time it will take students to complete the assignments will meet the rule.

Center for Disability Access and Resources (CDAR) Reasonable Accommodations Statement:

Reasonable accommodations are available for students who have documented temporary or permanent disabilities. Ideally, students in Moscow and Boise should meet with CDAR by the end of the first week.
of class to assess if any accommodations are needed for courses and/or examinations. All accommodation requests are then submitted by CDAR to Dean Dodge for final approval. CDAR serves as the sole evaluator of medical documentation and determines reasonable accommodations on a per semester basis. The College of Law does not have the authority to evaluate or grant disability accommodations without CDAR first submitting a recommendation. You may contact CDAR by:

- Calling 208-885-6307
- Emailing cdar@uidaho.edu

It is ultimately the student’s responsibility to seek a disability accommodation, and until an accommodation is approved by CDAR and Dean Dodge, no student will be entitled to receive any accommodations. To learn more about CDAR, visit its website at http://www.uidaho.edu/current-students/cdar. Moscow students may also visit CDAR in suite 127 of the Pitman Center. Please review the College of Law Catalog and Student Handbook for more information on the disability accommodation process.

**Recording Class Sessions:**

Students may not electronically record classes unless they have the express consent of the instructor, except where the Dean of Students has allowed recording as a disability accommodation pursuant to a recommendation by CDAR. Recording classes without the instructor’s express consent violates the Honor Code. Students recording classes as a disability accommodation must follow procedures set down by CDAR. Students who are unable to attend class for reasons of illness or other exigencies must receive permission from the instructor before classes are recorded on their behalf. Contact the Law Library for recording equipment and information on recording procedures.

**My Expectations of You**

1) I expect you to attend class.
2) I expect you to show up on time. Clients don’t think highly of lawyers that show up late.
3) I expect you to be “present” for the entire class. What this means is no texting on cell phones or surfing the internet. When you become an associate, a district attorney, or a public defender, what do you think your boss or client will think if you are playing solitaire or twittering while they are speaking?
4) I expect you to read the assigned cases and be ready to participate. I understand that there may be extenuating circumstances that prevent you from participating on a given day. If there are extenuating circumstances, please approach me before class or email me at least 1 hour before class and let me know.
5) I expect you to respect each other and to create a fostering climate of learning. On some matters that we will discuss in class, you may have a strong personal opinion. I ask each of you to focus your class comments on the legal opinions before us and not your personal opinions.
6) I expect you to try and engage the material even when it is difficult or potentially boring. Remember not all cases you will work on as an attorney will be equally straightforward or exciting.
7) I expect you to master the conflict of laws issues. In reading the cases, we will encounter questions involving substantive law from conflicts, torts, wills, estates, family law, and labor law—please focus your efforts on the conflict of laws issues. For this class, you will not need to know the nuances of the underlying substantive laws.

8) I expect you to periodically give me feedback about whether you are learning and how you would improve the class.

9) I expect you to succeed.

Office Hours

If you want to meet me for office hours, please either let me know before or after class so that we schedule an appointment. You can also email me to set up an appointment.

Schedule

These are my initial thoughts about reading assignments. Depending on the pace of the class, readings may be subject to change. At the end of each week, I will inform you about the reading assignments for the next week. There is no reading for the first class. If you want to prepare for the second class, please skim the following cases and read the two cases.

INTRODUCTION

0-Review Overview of Conflict of Laws (First day of class). Introduction to a bar exam question.

JURISDICTION

1- Review of Jurisdictional Concepts learned in Civil Procedure- Personal Jurisdiction, In-Rem Jurisdiction, Quasi-in-rem Jurisdiction, Long-Arm statutes
   - International Shoe Co. v. Washington 326 U.S. 310 (1945) (Corporations and Jurisdiction) (Skim)
   - Asahi Metal Industry Co v. Superior Court of California 480 U.S. 102 (1987) (Specific Jurisdiction) (Skim)
   - World-Wide Volkswagen v. Woodson (p. 389)
   - Burger King Corporation v. Rudzewicz (p. 412)

2- Forum Non Conveniens, Attachment Jurisdiction, Transient Jurisdiction, and “Extraterritorial” Jurisdiction, Review of Jurisdiction
   - Shaffer v. Heitner (p. 434)
   - Note 3 (p. 452)
   - Burnham v. Superior Court of California (p. 453)
   - Piper Aircraft v. Reno (p. 468)
   - Daimler AG v. Bauman 134 S. Ct. 746 (2014) (Skim) (General Jurisdiction)
3- Sovereign Immunity and Forum Selection clauses
   ▪ Skim content of Foreign Sovereign Immunity Act

CHOICE OF LAW

4- Traditional Approach to Choice of Law
   Lex Loci Delicti and Lex Locus Contractus
   ▪ Alabama Great Southern R.R. Co. v. Carroll (p. 6)
   ▪ Notes 1, 2, 5 (p. 9)
   ▪ Notes 2, 3, 4, 5, and 8 (p. 14)
   ▪ Milliken v. Pratt (p. 18)
   ▪ Notes 1, 3, 5, 7(a), 7(b), 8, and 9 (p. 21)

5- Traditional Approach to Choice of Law
   Law of Situs and Law of Domicile
   ▪ In Re Barrie’s Estate (p. 26)
   ▪ Notes 3, 4, 5, and 6 (p. 28)
   ▪ White and Tennant (p. 31)
   ▪ Notes 1, 3, 4, 5, 6 (p. 33)
   ▪ Notes 1, 2, 3, and 4 (p. 37)

6- Traditional Approach to Choice of Law-Escape Devices
   ▪ Levy v. Daniels U-Drive Auto Rental (p. 39)
   ▪ Haumschild v. Continental Cas. Co. (p. 41)
   ▪ Notes 2, 3, 4, 5, 7, 8, and 10 (p. 43)
   ▪ Grant v. McAuliffe (p. 48)
   ▪ Note 1, 2, 5, and 6 (p. 51)
   ▪ Bournias v. Atlantic (p. 55)
   ▪ Note 2 and 3 (p. 59)
   ▪ Note 1 (p. 51) and 6 (p. 55)
   ▪ In Re Schneider (p. 61)
   ▪ Note 1 (p. 64)
   ▪ Loucks v. Standard Oil (p. 70)
   ▪ Note 1 (p. 79) and Note 1 (p. 82)

7- Modern Approaches to Choice of Law- Statutes and Party Autonomy
   ▪ Pritchard v. Norton (p. 99)
- Siegelman v. Cunard (p. 101)
- Note 2-3(p. 105-106) and 11 (p. 112)
- Wyatt v. Fulrath (p. 113)
- Choice of Law clauses

8- Modern Approaches to Choice of Law- Interest Analysis (False Conflicts and Unprovided for Cases)
  - Tooker v. Lopez (p. 137)
  - Schultz v. Boy Scouts (p. 145)
  - Note 2 (p. 151)
  - Cooney v. Osgood (p. 155)
  - Note 4 (p. 162-164)
  - Erwin v. Thomas (p. 167)

9- Modern Approaches to Choice of Law-Interest Analysis (True Conflicts), Comparative Impairment), Policy-Selecting Rules, Principles of Preference
  - Hypotheticals from Lecture
  - Lilienthal v. Kaufman (p. 174)
  - Note 5 (p. 180)
  - Bernkrant v. Fowler (p. 182)

10- Modern Approaches to Choice of Law-Restatement 2nd,
  - pp. 204-205
  - Philips v. General Motors (p. 209)
  - Statutes- Oregon Choice of Law (ORS Chap. 31 and ORS Chap. 81)

11- Modern Approaches to Choice of Law-Restatement 2nd and Better Law
  - Leflar excerpt pp. 228-229
  - Milkovich v. Saari (p. 231)
  - Jepson v. General Casualty of Wisconsin (p. 235)

12- Modern Approaches to Choice of Law- Class Actions  Proof of Foreign Law
  - In Re Air Crash Disaster (p. 267)
  - Hague Choice of Law Principles

JUDGMENTS

13- Recognition of Judgments- Res Judicata and Full Faith and Credit
  - Uniform Foreign Money Judgments Recognition Act (1962)
14- Recognition of Judgments Limitations on Full Faith and Credit
   - Durfee v. Duke (p. 507)
   - Note 5 (p. 511) and Note 7 (p. 513)
   - Fall v. Eastin (p. 516)
   - Worthley v. Worthley (p. 525)
   - Note 2 (pp. 528-529)

15- Review of Judgments
   - Baker v. General Motors Corporation (p. 533)
   - Matsushita Electric Industrial Co. v. Epstein (p. 559)

CONSTITUTION AND CHOICE OF LAW

16- Constitution and Choice of Law-Due Process and Full Faith and Credit Clause
   - Article IV (p. 897) and p. Amendment V, Amendment XIV 898
   - Home Ins. v. Dick (p. 316)
   - Note 2 (pp. 320-321)
   - Alaska Packers Assoc. v. Industrial Acc. Comm’n (p. 325)
   - Pacific Employers Ins. Co. v. Industrial Acc. Comm’n (p. 328)

17- Constitution and Choice of Law- Minimum Contacts and Choice of Law
   - Allstate Ins. Co. v. Hague (p. 336)
   - Phillips Petroleum Co. v. Shutts (p. 346)
   - Note 1 (pp. 350-351), Note 3 (p. 352), Note 4 (pp. 352-354)

18- Constitution and Choice of Law- Review
   - Hughes v. Fetter (p. 356)
   - Note 2 (pp. 365)
   - Supreme Court of N.H. v. Piper (p. 367)
   - Note 6 (p. 376) and Note 8 (p. 377)

STATE AND FEDERAL CONFLICTS AND CHOICE OF LAW

19- Federal Courts and the Erie Doctrine
   - Erie Railroad Company v. Tompkins (p. 695)
   - Guaranty Trust Co of New York v. York (p. 705)
   - Byrd v. Blue Ridge Rural Electric Co-op., Inc (p. 709)

20- Federal Courts and the Erie Doctrine
Walker v. Armco Steel Copr. (p. 720)
Gasperini v. Center for Humanities (p. 728)
Semtek International Inc. v. Lockheed Martin Corp. (p. 738)

21- Choice of Law in Federal-Court Cases Involving State Created Rights
   - Note 2 (p. 746) and Note 7 (p. 748)

22- Federal Common Law, Pre-emption and Supremacy
   - Clearfield Trust Co. v. United States (p. 749)
   - Banco Nacional de Cuba v. Sabbatino (p. 753)
   - English v. General Electric (p. 760)
   - Testa v. Katt (p. 770)

CONFLICT OF LAWS APPLIED

23 Marriage and Divorce and Child Custody
   - Williams v. State of North Carolina (I) (p. 571)
   - Estin v. Estin (p. 579)
   - Williams v. State of North Carolina (II) (p. 589)
   - Uniform Child Custody Jurisdiction Act (excerpts)
   - Additional readings-TBA

24- Cyberspace, International Forum Selection Clauses, and Recognition of Foreign Nation Judgments
   - Compuserve Inc. v. Patterson, 89 F.3d 1257 (6th Cir. 1996)
   - GTE New Media Services, Inc. v. Bell South Corp., 199 F. 3d 1343 (D.C. Cir. 2000)
   - LICRA et UEJF v. Yahoo! Inc. (p. 301)
   - Hilton v. Guyot (p. 881)
   - Note 7 (p. 889)

25- Review
   - Student Presentations

26- Review
   - Student Presentations

Student Code of Conduct

Preamble- The university disciplinary system is part of the educational process of students focusing on behavior within a community. Sanctions are imposed for violations to the Student Code of Conduct to teach students how to be better and more responsible members of a community.

Article II- Cheating on classroom or outside assignments, examinations, or tests is a violation of this code. Plagiarism, falsification of academic records, and the acquisition or use of test materials without faculty authorization are considered forms of academic dishonesty and, as such, are violations of the code. Because academic honesty and integrity are core values at a university, the faculty finds that even
one incident of academic dishonesty seriously and critically endangers the essential operation of the university and may merit expulsion.

External Resources

Sometimes law school may become a source of stress. Sometimes the stress can be difficult to manage on your own. If you need assistance with anxiety, depression, relationship issues, or other problems that are causing stress, I encourage you to please make an appointment with the Counseling Center in the Continuing Education Building. They offer same day appointments in case of crises.

885-6716 (8:00-5:00 Monday through Friday)