

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
<i>Goodyear Dunlop Tires Operations v. Brown</i>	7
Notes on <i>Goodyear Dunlop</i>	11
C. Minimum Contacts and Fairness Factors	14
<i>Daimler AG v. Bauman</i>	14
Notes on <i>Daimler</i>	18
<i>Bristol-Myers Squibb Co. v. Superior Court of California</i>	19
	xi

Notes on <i>Bristol-Myers</i>	24
<i>Asahi Metal Industry Co. v. Superior Court of California</i>	27
Notes on <i>Asahi</i>	32
<i>J. McIntyre Machinery, Ltd. v. Nicaastro</i>	33
Notes on <i>McIntyre</i>	43
D. Presence in the Jurisdiction	45
1. Presence of Property	45
2. Presence of Persons	47
<i>Burnham v. Superior Court of California</i>	48
Notes on <i>Burnham</i>	56
E. Personal Jurisdiction and the Internet	58
1. Introduction to Personal Jurisdiction and the Internet	58
Perspective on Internet Architecture and Use	60
2. Personal Jurisdiction Doctrine and the Internet	64
<i>Cybersell, Inc. v. Cybersell, Inc.</i>	65
<i>Young v. New Haven Advocate</i>	68
Notes on Personal Jurisdiction and the Internet	72
F. International and Comparative Jurisdiction Issues	78
1. Personal Jurisdiction over Parties in International Disputes	78
2. Regulation of Service of Process for Transnational Controversies	81
<i>Volkswagenwerk Aktiengesellschaft v. Schlunk</i>	81
Notes on <i>Schlunk</i>	86
3. Comparative Material: Jurisdiction Regulation Among European Union Members	88
G. Other Matters Related to Forum Choice	90
1. Venue and Venue Transfer	91
<i>In re Genentech, Inc.</i>	92
Notes on <i>Genentech</i>	97
<i>Van Dusen v. Barrack</i>	99
Notes on <i>Van Dusen v. Barrack</i>	103
2. Forum Non Conveniens	104
<i>Piper Aircraft Company v. Reyno</i>	105
Notes on <i>Piper</i> and the Forum Non Conveniens Doctrine	112
3. Consent to Jurisdiction and Forum Selection Clauses	115
<i>M/S Bremen v. Zapata Off-Shore Company</i>	115
Notes on <i>Bremen</i>	119
<i>Carnival Cruise Lines, Inc. v. Shute</i>	120

Notes on <i>Carnival Cruise Lines</i> and Forum Selection Clauses Generally	125
4. Principles Governing When Courts in the United States May Exercise Power in International Cases	130
a. Subject Matter Jurisdiction	130
b. The Political Question Doctrine	131
c. Foreign Sovereign Immunity	131
26 Department of State Bulletin 984 (1952)	133
<i>Republic of Austria v. Altmann</i>	135
Notes on <i>Altmann</i>	141
d. The Act of State Doctrine	142
<i>Banco Nacional de Cuba v. Sabbatino</i>	142
Notes on <i>Sabbatino</i>	151
Perspective on the Domestic and International Forum-Shopping System	155
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	168
<i>Alabama G.S.R.R. Co. v. Carroll</i>	168
Notes on <i>Carroll</i>	171
<i>Laboratory Corp. of America v. Hood</i>	174
Notes on The Restatement Sections and <i>Hood</i>	179
b. Intentional Torts	182
<i>Dominican Republic v. AES Corporation</i>	182
Notes on <i>Dominican Republic v. AES Corporation</i>	186
Perspective on Proof of Foreign Law	188
Perspective on Raising and Preserving Conflict of Laws Issues in Litigation	191
2. Contracts	193
<i>Linn v. Employers Reinsurance Corp.</i>	198
Notes on <i>Linn</i> and Restatement Principles Governing Contract Formation and Validity Questions	200
<i>Moses v. Halstead & Allstate Insurance Company</i>	205
Notes on <i>Moses v. Alstead & Allstate Insurance Co.</i>	208
<i>Sturiano v. Brooks</i>	211
Notes on <i>Sturiano v. Brooks</i>	213

3. Property	214
<i>Hill v. Hill</i>	217
Notes on <i>Hill v. Hill</i> and the Situs Rule	220
4. Marriage	223
<i>In re May's Estate</i>	227
<i>Catalano v. Catalano</i>	230
Notes on <i>In re May's Estate</i> and <i>Catalano v. Catalano</i>	234
Perspective on Same-Sex Marriage: An Overview of History and Legal Issues in the United States	237
5. Structural Mechanics and Escape Valves	240
a. Substance and Procedure	241
<i>Sampson v. Channell</i>	241
Notes on <i>Sampson v. Channell</i>	245
b. Characterization	247
<i>Alabama G.S.R.R. Co. v. Carroll</i>	248
<i>Levy v. Daniels' U-Drive Auto Renting Co.</i>	250
Notes on <i>Carroll</i> and <i>Levy</i>	252
c. Renvoi	254
<i>In re Estate of Joseph Damato</i>	254
Notes on <i>Damato</i>	256
d. Public Policy	261
<i>Loucks v. Standard Oil Co. of New York</i>	261
Notes on <i>Loucks</i>	264
<i>Raskin v. Allison</i>	265
Notes on <i>Raskin</i> and the Public Policy Exception Generally	268
<i>Alexander v. General Motors Corporation</i>	269
Note on <i>Alexander v. General Motors</i>	271
Perspective on Public Policy	273
e. Domicile	274
Perspective on Domicile, Residence, and Citizenship	274
<i>In re Dorrance's Estate</i> , 309 Pa. 151 (Pa. 1932)	280
<i>In re Dorrance's Estate</i> , 170 A. 601 (N.J. Prerog. Ct. 1934), <i>aff'd mem.</i> <i>Dorrance v. Thayer-Martin</i> , 176 A. 902 (N.J. 1935)	285
Notes on The <i>Dorrance</i> Cases	288
B. Early Critique of the Restatement (First) and Evolution of the Center of Gravity Approach	291
<i>Haag v. Barnes</i>	293
Notes on <i>Haag v. Barnes</i>	296

<i>Babcock v. Jackson</i>	298
Notes on <i>Babcock v. Jackson</i>	301
C. Governmental Interest Analysis	303
1. False Conflicts	305
<i>Schultz v. Boy Scouts of America, Inc.</i>	305
Notes on <i>Schultz v. Boy Scouts of America</i>	313
2. Apparent or True Conflicts	316
<i>Lilienthal v. Kaufman</i>	316
Notes on <i>Lilienthal</i>	320
<i>Bernkrant v. Fowler</i>	322
Notes on <i>Bernkrant</i>	324
3. No Interest or Unprovided-for Cases	326
<i>Erwin v. Thomas</i>	326
Notes on <i>Erwin</i>	328
4. Experimenting with Balancing Interests	330
<i>D'Agostino v. Johnson & Johnson, Inc.</i>	330
Notes on <i>D'Agostino</i>	335
<i>Rowe v. Hoffmann-La Roche</i>	335
Notes on <i>Rowe</i>	338
D. Comparative Impairment	340
<i>Offshore Rental Company v. Continental Oil Company</i>	340
Notes on <i>Offshore</i>	345
<i>McCann v. Foster Wheeler LLC</i>	348
Notes on <i>McCann</i> and Critiques of Comparative Impairment	358
<i>CRS Recovery, Inc. v. Laxton</i>	359
Notes on <i>CRS Recovery</i>	363
E. Better Rule of Law	365
<i>Drinkwater v. American Family Mutual Insurance Company</i>	368
Notes on <i>Drinkwater</i> 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
<i>Townsend v. Sears, Roebuck and Company</i>	388
Notes on <i>Townsend v. Sears</i>	397
Perspective on Dépeçage	399

	<i>P.V. v. Camp Jaycee</i>	401
	Notes on <i>P.V. v. Camp Jaycee</i>	410
3.	Contracts	412
	a. Contracts Without a Choice of Law Clause	412
	<i>Hoiles v. Alioto</i>	415
	Notes on <i>Hoiles</i>	421
	<i>Naghiu v. Inter-Continental Hotels Group, Inc.</i>	422
	Notes on <i>Naghiu</i>	427
	b. Contracts with a Choice of Law Clause	429
	(1) Section 187	429
	<i>Nedlloyd Lines B.V. v. Superior Court of San Mateo County</i>	434
	Notes on <i>Nedlloyd</i>	440
	<i>1-800-Got Junk? LLC v. Superior Court of Los Angeles County</i>	443
	Notes on <i>Got Junk</i>	449
	<i>Hodas v. Morin</i>	451
	Notes on <i>Hodas</i> and Assisted Reproduction Technology Regulation	455
	<i>Edward DeSantis v. Wackenhut Corporation</i>	459
	Notes on <i>DeSantis v. Wackenhut</i>	464
	Perspective on Theories of Party Autonomy and Choice of Law	464
	(2) Other Approaches to Choice of Law Clauses: The UCC, Specific State Statutes, and Rome I	467
4.	Property	469
	<i>Farmers Exchange Bank v. Metro Contracting Services, Inc.</i>	470
	Notes on <i>Farmers Exchange Bank</i>	475
5.	Marriage	477
	<i>In re Farraj</i>	478
	<i>McPeek v. McCardle</i>	479
	Notes on <i>Farraj</i> and <i>McPeek</i>	482
6.	Structural Mechanics and Escape Valves	485
	a. Substance and Procedure	486
	<i>Boyd Rosene and Assoc., Inc. v. Kansas Mun. Gas Agency</i>	486
	Notes on <i>Rosene</i>	491
	<i>Ford Motor Company v. Leggat</i>	492
	Note on <i>Ford Motor Co. v. Leggat</i>	494
	b. Characterization	495
	<i>Waddoups v. The Amalgamated Sugar Company</i>	495

Notes on <i>Waddoups</i>	499
c. Renvoi	501
d. Public Policy	502
e. Domicile	503
<i>Mzamane v. Winfrey</i>	505
Notes on <i>Mzamane</i>	513
G. Lex Fori	514
<i>Sutherland v. Kennington Truck Service, Ltd.</i>	515
Notes on <i>Sutherland</i> and Lex Fori	520
H. Hybrid Approaches in the Courts	523
1. Pennsylvania	524
<i>Budget Rent-a-Car System, Inc. v. Chappell</i>	524
Notes on <i>Budget</i> and the Pennsylvania Hybrid Approach	528
2. New York	530
<i>Bakalar v. Vavra</i>	530
Notes on <i>Bakalar</i> and the New York Approach	535
3. Hawaii	538
<i>Mikelson v. United Services Automobile Ass'n</i>	538
Notes on <i>Mikelson</i> and the Hawaii Approach	542
I. Critiques of Existing Choice of Law Approaches	544
Perspective on Complexity in Choice of Law	544
<i>Dowis v. Mud Slingers, Inc.</i>	548
Notes on <i>Dowis</i> and Choosing the Optimal Methodology	551
Perspective on Rules and Standards	554
J. Statutory Choice of Law Rules	556
1. Statutes of Limitation	557
<i>Duke v. Housen</i>	559
Notes on <i>Duke v. Housen</i>	565
<i>DeLoach v. Alfred</i>	569
Notes on <i>DeLoach v. Alfred</i>	573
<i>Chang v. Baxter Healthcare Corporation</i>	574
Notes on <i>Chang</i>	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	588
1. Overview	588
2. Multidistrict Litigation and Class Action Cases	592
<i>In the Matter of Bridgestone/Firestone, Inc.</i>	592
<i>In re Vioxx Products Liability Litigation</i>	596
Notes on <i>Bridgestone/Firestone</i> and <i>Vioxx</i>	603
L. Internet Choice of Law Issues	607
1. Unilateral Decisions	610
<i>LICRA and UEJF v. Yahoo! Inc.</i>	610
Notes on <i>Yahoo!</i>	612
<i>Jeri-Jo Knitwear, Inc. v. Club Italia, Inc.</i>	615
Notes on <i>Jeri-Jo</i>	617
<i>Barcelona.com, Inc. v. Excelentísimo Ayuntamiento de Barcelona</i>	617
Notes on <i>Barcelona.com</i>	624
2. Multilateral Choice of Law	624
<i>Evelyn Clark v. Experian Information Solutions, Inc.</i>	624
Notes on <i>Clark</i>	628
M. Restatement (Third) of Conflict of Laws	629
N. International and Comparative Choice of Law Issues	630
Perspective on the Relationship Between International Law and Conflict of Law Doctrines	630
1. Routine Choice of Law in International Cases	633
2. International Treaties Governing Choice of Law Matters	634
<i>Forestal Guarani S.A. v. Daros International, Inc.</i>	635
Notes on <i>Forestal</i>	638
3. Comparative Material: The European Union	640
Perspective on Taking Stock — A Retrospective on the Techniques for Reckoning with Diversity Among Laws	646
CHAPTER 3 THE ROLE OF THE FEDERAL GOVERNMENT	649
A. Umpiring Principles in the United States Constitution	650
1. Constitutional Constraints on Horizontal Choice of Law	651
<i>Allstate Ins. Co. v. Hague</i>	653
Notes on <i>Allstate</i>	664
<i>Phillips Petroleum Co. v. Shutts</i>	667
Notes on <i>Phillips Petroleum Co. v. Shutts</i>	674
2. Constitutional Principles Imposing an Obligation to Provide a Forum	677

<i>Hughes v. Fetter</i>	677
<i>Wells v. Simonds Abrasive Co.</i>	680
Notes on <i>Hughes</i> and <i>Wells</i>	682
<i>Nevada v. Hall</i>	685
Notes on <i>Nevada v. Hall</i>	691
<i>Franchise Tax Board of California v. Hyatt (“Hyatt II”)</i>	693
Notes on <i>Franchise Tax Board v. Hyatt (Hyatt II)</i>	696
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
Perspective on Same-Sex Marriage — Constitutional Restrictions on Anti-Same-Sex Marriage Laws	701
B. The Federal Government as a Source of Law	702
1. Federal Supremacy and Preemption	702
<i>Zschernig v. Miller</i>	703
Notes on <i>Zschernig</i>	706
<i>Crosby v. National Foreign Trade Council</i>	707
Notes on <i>Crosby</i>	713
<i>American Insurance Association v. Garamendi</i>	714
Notes on <i>Garamendi</i>	719
2. The <i>Erie</i> Doctrine	722
<i>Erie R. Co. v. Tompkins</i>	722
Notes on <i>Erie</i>	726
Notes on the Substance/Procedure Dichotomy and the Aftermath of <i>Erie</i>	728
<i>Hanna v. Plumer</i>	732
Notes on <i>Hanna v. Plumer</i>	737
<i>Semtek Int’l Inc. v. Lockheed Martin Corp.</i>	740
Notes on <i>Semtek</i>	744
<i>Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.</i>	745
Notes on <i>Shady Grove</i>	750
Perspective on <i>Klaxon v. Stentor</i>	752
Perspective on <i>Erie</i> , Forum Shopping, and Stare Decisis in State and Federal Courts	754
3. Federal Common Law	761
<i>Boyle v. United Technologies Corp.</i>	762
Notes on <i>Boyle</i> and Federal Common Law	767

	<i>Sosa v. Alvarez-Machain</i>	770
	Notes on <i>Sosa v. Alvarez-Machain</i>	777
	Perspective on a Choice of Law Methodology for Federal Courts	778
4.	Hybrid Law	780
	<i>Medellín v. Texas</i>	781
	Notes on <i>Medellín</i>	786
C.	The Relationship between United States and International Laws	789
1.	General Principles	789
	<i>El Al Israel Airlines, Ltd. v. Tseng</i>	790
	Notes on <i>El Al</i>	797
2.	Use of International and Foreign Law Principles in United States Cases	798
	Notes on The Use of International and Foreign Law Principles in United States Cases	802
D.	Extraterritorial Application of United States Law	803
1.	Extraterritoriality and United States Statutes	803
	<i>EEOC v. Arabian American Oil Co.</i>	805
	Notes on <i>Arabian American Oil</i>	809
	<i>Hartford Fire Insurance Co. v. California</i>	811
	Notes on <i>Hartford Fire</i>	817
	<i>Morrison v. National Australia Bank Ltd.</i>	819
	Notes on <i>Morrison</i>	825
	Perspective on the Expansive Presumption Against Extraterritorial Application of United States Statutes	829
2.	Extraterritoriality and the Constitution	831
CHAPTER 4	RECOGNITION AND ENFORCEMENT OF JUDGMENTS	835
	Perspective on Claim Preclusion and Issue Preclusion	838
A.	The Full Faith and Credit Principle	841
	<i>Fauntleroy v. Lum</i>	843
	Notes on <i>Fauntleroy</i>	846
B.	Qualifications or Exceptions to the Full Faith and Credit Principle	849
	<i>Durfee v. Duke</i>	849
	Notes on <i>Durfee v. Duke</i>	852
	<i>Fall v. Eastin</i>	854
	Notes on <i>Fall v. Eastin</i>	858

<i>Thomas v. Washington Gas Light Co.</i>	860
Notes on <i>Thomas v. Washington Gas Light</i>	867
<i>Baker v. General Motors Corp.</i>	870
Notes on <i>Baker v. GM</i>	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
<i>United States v. Stauffer Chemical Co.</i>	887
Notes on <i>United States v. Stauffer Chemical Co.</i>	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
<i>Estin v. Estin</i>	898
Notes on <i>Estin v. Estin</i> 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
<i>In re Forlenza</i>	916
Notes on <i>Forlenza</i> , the PKPA, and the UCCJEA	920
b. International Child Abduction	922
<i>Abbott v. Abbott</i>	924
Notes on <i>Abbott v. Abbott</i>	930
<i>Van De Sande v. Van De Sande</i>	931
Notes on <i>Van De Sande</i>	935
5. Child Support	938
<i>Philipp v. Stahl</i> , 781 A.2d 1065 (N.J. Super. Ct. App. Div. 2001), <i>rev'd</i> , 798 A.2d 83 (N.J. 2002)	939
<i>Philipp v. Stahl</i> , 798 A.2d 83 (N.J. 2002), <i>rev'g</i> , 781 A.2d 1065 (N.J. Super. Ct. App. Div. 2001)	946
Notes on <i>Philipp v. Stahl</i>	946
E. Recognition and Enforcement of Foreign Country Judgments	948
1. General Principles	951
<i>Hilton v. Guyot</i>	951

Notes on <i>Hilton v. Guyot</i> 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
<i>The Society of Lloyd's v. Ashenden</i>	964
Notes on <i>Society of Lloyd's v. Ashenden</i>	967
3. The Public Policy Exception to Presumptive Recognition of Foreign Country Judgments	969
a. The Scope of the Public Policy Exception	969
<i>Southwest Livestock & Trucking Co. v. Ramón</i>	969
Notes on <i>Southwest Livestock</i>	972
b. The First Amendment and Libel Tourism	974
<i>Matusevitch v. Telnikoff</i>	975
Notes on <i>Matusevitch v. Telnikoff</i>	978
Perspective on Libel Tourism and the SPEECH Act	980
4. Special Challenges of International Judgments in Internet Cases	984
<i>Yahoo!, Inc. v. La Ligue Contre Le Racisme et L'Antisémitisme</i>	985
Notes on <i>Yahoo!</i>	990
<i>Citron v. Zündel</i>	991
Notes on <i>Citron v. Zündel</i>	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