TENTATIVE SYLLABUS*

(Fall 2019)

I. TRADITIONAL THEORIES IN CHOICE OF LAW

A. A Survey of Black Letter Law

1. Torts
   Alabama Great Southern R.R. Co. v. Carroll (Cb. 1)
   Horn v. North British Railway Co. (Cb. 6)

2. Contracts
   Milliken v. Pratt (Cb. 14)
   The English Rule (Cb. 17)
   Rome I Regulation, Art. 3, 4, 9, 10, 11, 13 (Distribution)

3. Property, Wills, and Intestate Succession
   Barrie's Estate (Cb. 20)
   White v. Tennant (Cb. 25)
   Estate of Jones (Cb. 28)

4. Public Policy
   Loucks v. Standard Oil Co. (Cb. 34)
   Kilberg v. Northeast Airlines (Cb. 129)

* Cb. references are to Lowenfeld, Conflict of Laws, (Revised Second Edition 2002). NOTE: ASSIGNMENTS INCLUDE ALL NOTES AND QUESTIONS FOLLOWING PRINCIPAL CASE Distributions can be found under “Course Information” on the NYU Classes website.
5. **Marriage and Public Policy**
   Note (Cb. 854-855)
   May's Estate (Cb. 855)
   Wilkins v. Zelichowski (Cb. 858)
   Dalip Singh Bir's Estate (Cb. 859)
   Same Sex Marriages (Cb. 862-865)
   Silberman, Same-Sex Marriage: Refining the Conflict of Laws Analysis (Distribution)
   Obergefell v. Hodges (excerpt) (S.Ct. 2015) (Distribution)

6. **Pleading and Proof of Foreign Law**
   Federal Rule Civil Procedure 44.1 (Distribution)
   Bodum USA, Inc. v. La Cafetière (Distribution)
   Foreign Law Ban (Distribution)

**B. Escape Devices**

1. **Renvoi**
   In re Annesley (Cb. 41)
   Schneider's Estate (Cb. 48)
   University of Chicago v. Dater (Cb. 46)
   Statutory Interpretation and Renvoi (Distribution)
   Richards v. U.S. (Distribution)

2. **Characterization**
   Haumschild v. Continental Casualty Co. (Cb. 52)
   Mertz v. Mertz (Cb. 58)
   Levy v. Daniels' U-Drive Auto Renting Co. (Cb. 61)

3. **Substance or Procedure**
   Levy v. Steiger (Cb. 66)
   Sampson v. Channell (Cb. 444)
   Grant v. McAuliffe (Cb. 67)
   In re Cohn (Cb. 71)
   Kilberg v. Northeast Airlines, Inc. (Cb. 129)
   Harding v. Wealands (House of Lords 2006) (Distribution)
   Rome II Regulation (Arts. 4, 15) (Distribution)
4. Statutes of Limitations
   Bournias v. Atlantic Maritime Co. (Cb. 75)
   Note, Guaranty Trust v. York (Cb. 455)
   West v. Theis (Cb. 79)
   Mack Trucks, Inc. v. Bendix-Westinghouse Automotive Air Brake Co. (Cb. 81)
   Note on Time Bar (Cb. 91)
   Baxter v. Sturm, Ruger (Cb. 92)
   Baxter v. Sturm, Ruger (Cb. 95)
   Baxter v. Sturm, Ruger (Cb. 98)
   Restatement (Second) and Uniform Act (Cb. 100-101)
   Problem (Distribution)

II. MODERN APPROACHES TO CHOICE LAW

   A. Interest Analysis in Torts

1. The Range of Modern Thinking
   Notes (Cb. 103)
   Cavers, Five Imaginary Cases (Cb. 104-124)

2. The New York Experience
   Kilberg v. Northeast Airlines (Cb. 129)
   Pearson v. Northeast Airlines (Cb. 135)
   Babcock v. Jackson (Cb. 145)
   Dym v. Gordon (Cb. 152)
   Macey v. Rozbicki (Cb. 162)
   Farber v. Smolack (Cb. 165)
   Tooker v. Lopez (Cb. 173)
   Neumeier v. Kuehner (Cb. 181)
   Kell v. Henderson (Cb. 160)

3. Other Interstate Automobile Cases
Notes (Cb. 192-195)
Milkovich v. Saari (Cb. 195)

4. Help From the Professors ???
Perspectives on Conflicts of Laws (Distribution)

5. The Later New York Cases
Schultz v. Boy Scouts (Cb. 205)
Cooney v. Osgood (Cb. 225)
Padula v. Lilarn Properties Corp. (NY. 1994) (Distribution)
Edwards v. Erie Coach Lines (NY. 2011) (Distribution)
Barkanic v. General Administration (Distribution)
Pescatore v. Pan American World Airways, Inc. (Distribution)
Licci v. Lebanese Canadian Bank, SAL (2d Cir. 2013) (Distribution)

6. A Comparative Perspective
Rome II Regulation, Arts. 4, 5, 15, 16, 17, 23, 26 (Distribution)

B. Other Modern Contexts

1. Product Liability
Rowe v. Hoffman-LaRoche (N.J. 2007) (Distribution)

2. Stolen Art
Bakalar v. Vavra (2nd Cir. 2010) (Distribution)

3. Data
 Advocate General Opinion: EU Ct. of Justice (“The Google France case) (Distribution)

C. Interest Analysis in Contracts

1. Interests or Contacts
Note (Cb. 231)
Auten v. Auten (Cb. 246)
Haag v. Barnes (Cb. 249)
Lilienthal v. Kaufman (Cb. 232)
Bernkrant v. Fowler (Cb. 239)
2. **A Comparative Perspective**
Rome I Regulation, Arts. 4, 6, 9, 10, 11, 12, 13, 21 (Distribution)

**D. Choice Directed Solutions**

1. **Party Autonomy in Contracts: Choice of Law**
   Notes, (Cb. 256-258)
   Siegelman v. Cunard White Star, Ltd. (Cb. 259)
   Piscane v. Italia Societa Per Azioni Di Navigazioni (Cb. 271)
   Southern International Sales v. Potter & Brumfield Div. (Cb. 272)
   Exxon Mobil Corp. v. Drennen (Tex. 2014) (Distribution)
   Note (Cb. 278-279)
   Restatement (Second) of Conflict of Laws §187 (Distribution)
   Uniform Commercial Code §1-301 (Distribution)
   N.Y. Gen. Obl. Law §5-1401 (Distribution)
   Rome I Regulation, Art. 3 (Distribution)
   Tzortzis and Sykias v. Monark Line A/B (Cb. 279)
   Cie Tunisienne de Navigation v. Cie d'Armement Maritime (Cb. 282)

2. **Party Autonomy in Contracts: Choice of Court**
   Unterweser Reederei G.m.b.H. v. Zapata Off-Shore Co. (Cb. 290)
   The Bremen v. Zapata Offshore Co. (Cb. 294)
   Carnival Cruise Lines v. Shute (Distribution)
   N.Y. Gen. Obl. Law §5-1402 (Distribution)
   Hague Choice of Court Convention (Distribution)

3. **Agreements to Arbitrate**
   Gilbert v. Burnstine (Cb. 312)
   Scherk v. Alberto-Culver Co. (Cb. 315)
   Mitsubishi Motor Corp. v. Soler Chrysler-Plymouth (Cb. 322)
   UN Convention on Arbitration (Distribution)

4. **Decedent Estates**
   Notes (Cb. 337-338)
Wyatt v. Fulrath (Cb. 338)
Estate of Clark (Cb. 346)
Maccoun/Watts v. Lanari/Meyer (Cb. 351)
N.Y.E.P.T.L. §3-5.1, §5.-1.1 (Distribution)
Watts v. Swiss Bank Corporation (Cb. 353)
Estate of Renard (Cb. 361-363)
Restatement (Second), §§ 258, 260, 265, 269, 270, 278 (Distribution)

5. **Other Statutory Directives**
   Rigdon v. Pittsburgh Tank & Tower Co. (Distribution)

**III. CONSTITUTIONAL AND INTERNATIONAL ASPECTS OF CONFLICT OF LAWS**

**A. The Constitution and Choice of Law**

1. **Limitations on Applicable Law**
   - Home Insurance Co. v. Dick (Cb. 382)
   - Alaska Packers Assoc. v. Industrial Accident Comm. (Cb. 386)
   - Pacific Employers Ins. Co. v. Industrial Accident Comm. (Cb. 389)
   - Watson v. Employers Liability Assurance Corp. (Cb. 392)
   - Clay v. Sun Insurance Office, Ltd. (Cb. 395)
   - Allstate Ins. Co. v. Hague (Cb. 402)
   - Phillips Petroleum Co. v. Shutts (Cb. 421)
   - Sun Oil v. Wortman (S.Ct.) (Cb. 422-429)

2. **Obligation To Provide A Forum**
   - Hughes v. Fetter (Cb. 367)
   - Wells v. Simonds Abrasive Co. (Cb. 374)

**B. Jurisdiction Reexamined in Light of Choice of Law**

1. **Jurisdiction: A Review**
   - Note (Cb. 485)
   - International Shoe Co. v. Washington (Cb. 486)
   - McGee v. International Life Ins. Co. (Cb. 491)
   - World-Wide Volkswagen v. Woodson (Cb. 531)
   - Keeton v. Hustler Magazine Inc. (Cb. 546)
Asahi Metal v. Superior Court (S.Ct.) (Cb. 565)
J. McIntyre Machinery, Ltd. v. Nicastro (S.Ct.) (Distribution)
Goodyear Dunlop Tires Operations v. Brown (S.Ct.) (Distribution)
Daimler AG v. Bauman (S.Ct.) (Distribution)
Bristol Myers Squibb v. Superior Court (S.Ct.) (Distribution)

2. **Tensions with Traditional Bases of Jurisdiction**
   
   Note (Cb. 578-580)
   Shaffer v. Heitner (Cb. 580)
   Burnham v. Superior Court (Cb. 610)

3. **Relationship of Jurisdiction and Choice of Law**
   
   Hanson v. Denckla (Cb. 498)
   Keeton v. Hustler Magazine, Inc. (Review)
   Allstate Ins. Co. v. Hague (Review)
   Piper Aircraft v. Reyno (Distribution)

4. **A Comparative Perspective**
   
   EU (Brussels) Regulation (Recast), Arts. 4-8, 17-19, 20-23 (Distribution)
   Judicial Jurisdiction in the European Community (Cb. 620-622)
   Excerpt on “Comparative Jurisdiction Regimes”, Silberman, Stein & Wolff, (Distribution)

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**C. Choice of Law in the Federal Courts**

1. **The Erie Problem**
   
   Erie R.R. v. Tompkins (Cb. 435)
   Sampson v. Channell (Cb. 444) (Review)
   Klaxon Co. v. Stentor Electric Mfg. Co. (Cb. 449)
   Guaranty Trust v. York (Cb. 457) (Review)
   Shady Grove Orthopedic Assoc. v. Allstate Ins. Co. (Distribution)
   Van Dusen v. Barrack (Cb. 457)
2. **Choice of Law in Aggregate Litigation**
   In re Air Crash Disaster Near Chicago, Illinois (Distribution)
   Choice of Law and Class Actions (Distribution)
   Class Action Fairness Act (Excerpts) (Distribution)

**D. Conflicts in the International Arena: A Preview**

1. **Jurisdiction to Prescribe: The Modern Approach**
   Restatement (Third) of Foreign Relations §§402-403 (Cb. 959-960)
   Hartford Fire Ins. Co. v. California (Cb. 960-969)
   Morrison v. National Australian Bank (S.Ct.) (Distribution)
   Kiobel v. Dutch Petroleum Co. (S.Ct.) (Distribution)
   RJR Nabisco v. European Community (S.Ct.) (Distribution)
   Restatement (Fourth) of Foreign Relations §§401-405 (Distribution)

**E. Recognition and Enforcement of Judgments**

1. **The Full Faith and Credit Standard**
   Note (Cb. 637-639)
   Fauntleroy v. Lum (Cb. 639)
   Thomas v. Washington Gas Light Co. (Cb. 663)
   Baker v. General Motors (Cb. 670-672)
   Baldwin v. Iowa State Traveling Men's Assoc. (Cb. 675)
   Durfee v. Duke (Cb. 676)

2. **Foreign Country Judgments**
   Hilton v. Guyot (Cb. 684)
   Johnston v. Compagnie Generale Transatlantique (Cb. 694)
   Uniform Foreign Money-Judgments Recognition Act (Distribution)
   2005 Uniform Revised Act (Distribution)
   The Speech Act 2010 (Distribution)
   EU (Brussels) Regulation (Recast), Arts. 45-46 (Distribution)
   2019 Hague Judgments Convention (Distribution)
   Note on Enforcement of Foreign Arbitral Awards (Cb. 734)
F. An Overview of Family Law (Primarily Lecture)*

1. **Divisible Divorce**
   Note (Cb. 747-749)
   Williams v. North Carolina I (Cb. 749)
   Williams v. North Carolina II (Cb. 758)
   Sherrrer v. Sherrrer (Cb. 768)
   Rosenstiel v. Rosenstiel (Cb. 780)
   Estin v. Estin (Cb. 796)
   Note on UIFSA (Cb. 819-825)
   UIFSA (Distribution)
   28 U.S.C. §1738 B (Distribution)
   Hague 2007 Maintenance Convention (Distribution)

2. **Child Custody**
   Note, Cb. 825
   May v. Anderson, Cb. 826
   Note (Cb. 832-834)
   UCCJEA (Distribution)
   28 U.S.C. 1738A (Distribution)

4. **The International Dimension**
   Note (Cb. 845-846)
   Hague Abduction Convention (Distribution)
   Hague 2007 Maintenance Convention (Distribution)

*You are not responsible for any of the details of UIFSA, the UCCJEA, 28 U.S.C. §1738A and §1738B, or the Hague Conventions. I just want you to know that they exist and what they cover.