1. Renvoi (actually désistement)
   1. Question is when to look to the choice of law rules of another jurisdiction when determining its interest
   2. Have already seen this done in Phillips v. GM case
      1. courts fall for this a lot
   3. Pfau v Trent Alum Co.
      1. 55 NJ 511
      2. P, Conn domiciliary, injured in Iowa while passenger in auto driven by NJ domiciliary
      3. Both are students at Parsons College in Iowa
      4. Iowa has guest statute
      5. car registered in NJ
         1. in name of company owned by D’s father
         2. insured in NJ by NJ co
      6. trip was to Columbia MO
         1. collided in Iowa w/ Iowa domiciliaries
      7. NJ (forum) does not have lex loci delicti
         1. Has interest analysis
      8. What are purposes of Iowa guest statute?
         1. cut down litig arising from unselfishness
         2. protect good Samaritan
         3. to prevent ingratitude
         4. to prevent suits by hitchhikers
         5. to prevent collusion affecting insurance
      9. so Iowa law does not apply
      10. Does Conn law apply?
          1. In determining Conn interest do we look to Conn choice of law rules?
          2. Conn (at the time) used lex loci deliciti
          3. so would apply Iowa law
          4. so no interest?

“First, it is not definite that plaintiff would be unable to recover in either of those states. More importantly, however we, see no reason for applying Connecticut's choice-of-law rule. To do so would frustrate the very goals of governmental-interest analysis. Connecticut's choice-of-law rule does not identify that state's interest in the matter. Lex loci delicti was born in an effort to achieve simplicity and uniformity, and does not relate to a state's interest in having its law applied to given issues in a tort case.”

* + - 1. fact of its lex loci delicti choice of law rule is unrelated to interest
         1. Lex loci was born of attempt for certainty
         2. Is that so?

Wasn’t it born of a view of state’s real legislative powers?

Conn thinks it cannot have an interest because no regulatory power

1. Approach of interest analysis to other state’s choice of law rules
   1. A number of approaches
      1. Kay & Westen
         1. Interests objective
         2. Once you spell out policies behind laws the interests follow independently of the jurisdiction’s choice of law rules
         3. but can use a jurisdiction’s choice of law rules to break true conflicts
         4. this is the usual approach, at least officially
            1. eg in 2nd Rest
      2. view that interests are subjective
         1. look to interest analysis jurisdiction’s choice of law decisions to determine its interests
         2. but don’t look to 1st Rest. jurisdiction’s choice of law rules
            1. BUT can to break true conflicts
      3. Kramer-Roosevelt
         1. choice of law rules always relevant
         2. as long as they are about scope not priority
         3. EG A CA court is entertaining an action brought by a NY P against an Ontario D concerning an accident in Ontario.
            1. NY would apply Ontario law
            2. does that mean that a CA ct cannot apply NY law?
            3. does NY ct say it is not interested?

then the CA ct is bound by its decisions

* + - * 1. or does it really recognizes it is a true conflict

and gives Ont law priority

that does not bind a CA ct

* + - 1. if so, what is 1st Rest approach?
         1. scope or priority?

Roosevelt says scope

Kramer priority

* + 1. Green’s argument
       1. Let us say that a NY ct thinks its choice of law decision is about scope
       2. does that mean that it wants to bind sister states?
       3. cannot make an a priori claim
       4. it should be certified to the relevant state supreme court
       5. Green thinks that state courts will say that sister state courts are not bound

1. **Problem of complex litigation**
   1. In re air crash disaster near Chicago (7th Cir)

not a class action

* 1. Airplane designed and built by McDonnell Douglas
  2. Operated by American
  3. Crashes out of O’Hare, bc engine falls off
  4. 118 wrongful death suits
     1. Filed in
        1. ill
        2. cal
        3. ny
        4. mich
        5. haw
        6. PR
     2. Ps are from
        1. cal
        2. CT
        3. Haw
        4. Ill
        5. Ind
        6. Mass
        7. Mich
        8. NJ
        9. NY
        10. VT
        11. PR
        12. Japan
        13. Neth
        14. Saudi Arabia
     3. D’s domicile
        1. McD Md is state of corp, PPB MO
        2. Am Del corp, PPB NY or maybe TX
     4. Place of wrong
        1. injury
           1. Ill
        2. wrongdoing
           1. McD (designing)

Cal

* + - * 1. Am (servicing)

OK

* 1. Cases are consolidated in ND Ill
     1. For pretrial motions
     2. Will be sent back for trial
  2. Question is punitive damages
     1. Allows pun dam
        1. MO
        2. TX
        3. OK
     2. Does not allow
        1. Ill
        2. CA
        3. NY
  3. Must use choice of law rules of all transferor states
     1. Van Dusen

so for Ill cases must use 2nd Rest –

for CA must use comp impairment

* for PR must use lex loci delicti
* for Hawaii must answer q of what it is – and
* NY must use NY’s Neumeier
* Mich must use interest analysis with forum preference

1. Just to get guiding thread – **Ct wants there to be A DECISION on the matter**
   1. **Same law (or at least same rule)**
   2. **choice of law rules really get manipulated**
2. Starts with Ill
   1. 2nd Rest
      1. Presumption of Ill law unless more sign rel in another state
         1. for claims against McD look to
            1. Ill

place of inj

* + - * 1. CA

Place of McD misconduct

* + - * 1. MO

Place of McD domicile

* + - * 1. What about Ps domiciles? So many…

How does ct solve this problem?

claims Ps domiciles have no interest in barring or allowing punitive damages

Why?

just what to make sure Ps get compensated

punitives about deterring and punishing

Why not deterring harm against domiciliaries…?

* + - * 1. place where rel is centered? Irrelevant
        2. so according to court only state of inj, state of wrongdoing and domicile of D relevant
      1. how to choose betw the 3 states
         1. ct says MO and Cal interest tie
         2. so no state has most sign relation
         3. as a result Ill law (the presumptive state under 2nd Rest) should be used

MO interested in deterring MO companies from engaging in wrongdoing

1. Is that really true?
2. if so, why aren’t Ps’ domiciles interested in deterring wrongdoing to Ps?

Cal interested in protecting companies doing business in Cal

Some plausibility

but if understood as protective would matter more if the company were domiciled there

* + - * 1. so Ill (presumption) applies

does this make sense?

How do you get Ill if it is less interested?

Really adding up state interests

Can’t really say whether Ill or Cal law applies

* 1. Next Ill choice of law applied to American
     1. Place of wrongdoing (OK) has punitives
     2. Place of dom (NY) does not
     3. Treats as same analysis
     4. Not true
        + In this case place of wrongdoing (OK) has punitive
          - More of an interest
        + And place of domicile of D (NY) has no punitives
        + NY has more of an interest too bc domiciliary to protect

Cases filed in Cal

* 1. Comp impairment
     1. ct uses basically same argument as 2nd Rest
     2. is that so?
     3. they are different approaches

1. Cases filed in NY
   1. Claims Neumeier rules same as 2nd Rest
      1. NO!
      2. punitives are conduct regulating
      3. So wouldn’t place of wrongdoing or injury apply?
2. Michigan
   1. Interest analysis with a strong lex fori approach in a true conflict
      1. Would probably have applied Mich law for Mich Ps
         1. if Mich has punitives – Mich has interest
      2. BUT ct appealed to case where Mich SCt cited approvingly an intermediate case that resolved under 2nd Rest!
      3. so said decision would be the same
      4. This is grotesque
3. PR
   1. Lex loci
   2. easy – Ill law
4. Hawaii
   1. Don’t know its approach
   2. What should you do?
   3. Green – two possibilities

tradition - lex loci delicti

or the most common modern choice – 2nd Rest

* 1. BUT ct said forum law

that is not even a choice of law approach!