FALL 2020

CONFLICT OF LAWS

Course Guidelines and Syllabus

Class Times: Tuesdays and Thursdays

11:00 A.M. TO 12:30 PM

On TSU Blackboard

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PROFESSOR MARY Q. KELLY

DRAFT OF 8/06/20
# Course Guidelines and Syllabus

## For Conflict of Laws  
**Fall 2020**

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THE PROFESSOR AND OFFICE HOURS

NAME: Mary Q. Kelly, Ph.D., J.D.

TELEPHONE: (713) 313-5568

EMAIL: mary.kelly@tmstat.tsu.edu

LOCATION: Law School Office No. 231E

OFFICE HOURS: Tuesdays and Thursdays from 3:00 PM to 4:00 PM and by appointment. The Professor will maintain open communication with students via Blackboard.

NOTE FROM THE PROFESSOR:

Welcome to Conflict of Laws! I look forward to working with you this Covid 20 semester. Before beginning Conflict of Laws, you should know the course’s overall goals and how we will achieve those goals. Knowing the course’s objectives and methodology will help you understand the purpose behind the reading assignments, class review and discussion, and the exams you will be assigned this semester.
COURSE BOOKS AND MATERIALS

The required textbook for Conflicts of Law is a new text—

Thomas O. Main and Stephen C. McCaffrey,

LEARNING CONFLICT OF LAWS


ISBN: 978-163459-497-4

We are fortunate to have available to us a new textbook with its fascinating analytical approach to support our course in conflict of laws. The book is available in Texas Southern University’s Bookstore in the Student Life Center. Class students may access the first portion of the text online under the Conflict of Laws site until they obtain copies. Each student must have and read the student’s own copy of the text—please do not consider sharing. Because the text is quite new, used copies will be hard to obtain.

You will like this text and its organization, different from other conflicts texts.

To get a glimpse of the approach of the textbook and the course, please read carefully the excerpt from the authors’ Preface to Learning Conflict of Laws on the page 5 of this Syllabus.
This is not a traditional casebook.

Traditional casebooks reprint court opinions and encourage students to extract the important doctrinal principles from key cases that have shaped the law. The traditional approach has its virtues: students are immersed in the conventions of legal discourse to identify key issues, appreciate procedural history, observe the use of precedent, engage with legal reasoning, and develop domain knowledge. The traditional case method is an effective technique for construction the scaffolding necessary to understand the law and to understand legal process generally.

This book assumes that you have already learned these basic skills, the hallmarks of a legal education. This book treats you like a new lawyer who is unfamiliar with the field Conflict of Laws. Each chapter reads like a lecture from a partner of a law firm. Hypotheticals then force you to apply the doctrine—thereby reinforcing the basic concepts, and revealing the complexity. Advocacy plays an outsized role in Conflict of Laws, and the hypotheticals allow you to develop and leverage that skill.

Each chapter includes some court opinions, but their pedagogic purpose here is limited. Indeed, your professor may not even assign or discuss them. The opinions that are included—often trial court opinions—were curated to illustrate applications of the doctrine. Each opinion is something of a pinpoint on a grand map that plots the outcomes of all case law that comprises a particular doctrine. The opinions exhibit both good and bad advocacy by lawyers—and also exhibit both deep and superficial understanding by judges. You will be encouraged to second-guess lawyers’ strategic choices. And you are encouraged to assume that any court opinion that you read may well have been reversed on appeal.

Preparation for class should feel like preparing for a seminar for practitioners. The treading is straightforward, but dense. This approach [to class preparation] assumes that you are a careful and deliberate reader who can be told something once.

The classroom experience should feel like you are learning how to be a good lawyer, as opposed to learning how to be a good law student. You will think strategically, perceive and leverage ambiguity, impose clarity, reason deductively and inductively, envision all sides of an argument, and pay attention to detail while recognizing which issues are more important than others. . . .
**Course Description and Objectives**

**DESCRIPTION:**

The primary goal of Conflict of Laws is to put students into the position of lawyers who must navigate the contours of various legal doctrines and make non-obvious strategic choices.

In general, Conflict of Laws will help students develop the following skills:

1. **Legal analysis.** – Students will read and analyze cases and fact situations to understand how results are affected by choice of law and various legal doctrines.

2. **Legal interpretation and application.** – Students will learn to narrow and expand holdings, to use and distinguish precedent, synthesize cases, spot issues, apply law to facts, interpret statutes, and develop and evaluate legal arguments.

3. **Legal communication-- writing.** – Students will use their legal writing skills, style, and grammar rules to communicate conflict of laws arguments with clarity, succinctness, and well-written English. Student will practice UBE-type questions involving conflict of laws. Students will be assigned timed essays to test their skills.

**OBJECTIVES:**

1. **Analyze.** -- By the end of Conflict of Laws, students should be able to analyze and understand how the conflict of legal principles can affect a complex fact situation and lead to different result in various jurisdictions and in different courts.

2. **UBE Preparation** -- By the end of Conflict of Laws, Students should be able to address competently questions involving conflict of laws on the Uniform Bar Examination,
STUDENT LEARNING OUTCOMES

Following is a more detailed list of the student learning outcomes and objectives for the Conflict of Laws course. The list reflects the key lawyering skills students acquired in their prior law school courses which students will continue to learn, develop, and practice in Conflicts. Students will continue to hone these skills in their practice of law.

1. **Critical reading and thinking.** Students will be able to:
   
   1.1. read, understand, and evaluate fact situations and cases by:
   
   a. identifying the elements of procedural facts, legally relevant facts, issues, holdings, reasoning, policies, legal rules, and disposition;
   
   b. synthesizing a line of related opinions; and
   
   1.2. read, understand, and evaluate statutes and regulations.
   
2. **Legal problem solving.** Students will be able to:
   
   2.2. identify legal issues in complex fact situations involving legal conflict;
   
   2.3. identify the relevant controlling and advisory legal authority and policy;
   
   2.4. use understanding of relevant legal authority to predict answers to the legal issues presented;
   
   2.5. identify potential alternatives to achieve the client’s goal; and
   
   2.6. identify unresolved legal and factual issues.
   
3. **Legal argument.** Students will be able to make effective legal arguments by:
   
   3.1. identifying the legal issues;
   
   3.2. identifying the relevant facts, authority (cases, statutes, and regulations), and policy;
   
   3.3. developing, elaborating, and evaluating relevant legal theories;
   
   3.4. accurately formulating and applying authority and rules (or principles of law) to the client’s situation;
3.5. supporting the client’s position by analogizing to favorable facts, authority, and policy;

3.6. distinguishing unfavorable facts, authority, and policy from the client’s position;

3.7. articulating clear inferences for factual support; and

3.8. identifying elements of statutory analysis (legislative history and canons of interpretation) relevant to the client’s position.

4. **Legal drafting.** Students will be able to:

4.1. communicate and explain their analysis and position effectively in timed essays by:

   a. organizing and expressing ideas with precision, clarity, logic, and economy; and

   b. using proper grammar, syntax, and punctuation;

5. **Recognizing and resolving ethical dilemmas; professionalism.**

5.1. Students will be able to:

   a. employ strategies for working cooperatively and collaboratively with others;

   b. employ strategies for allocating time, effort, and resources efficiently, completing tasks within time constraints, and meeting deadlines; and

5.2. comply with certain rules of professional responsibility and become familiar with the nature and sources of ethical legal standards.

6. **Legal research and citation.** Students will be able to:

6.1. identify the need for legal research;

6.2. memorialize research results in an appropriate format; and

6.3. use book and electronic research tools.
COURSE METHODOLOGY

Course methodology will include, but will not be limited to --

1. Students will learn by examining the conflict of laws issues in hypothetical fact situations and cases.

2. Students will lead small-group analytical discussions in class and discuss probable results of hypotheticals.

3. Students will submit writing exercises and complete exams to demonstrate their understanding of conflict principles and the issues courts must decide.
**Grading**

**General Grading Information**

**Course format:** Conflict of Laws is a three-credit hour course.

Your final grade will be based on the following:

<table>
<thead>
<tr>
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<th>Percentage</th>
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<tr>
<td>In-class mid-term exam</td>
<td>30%</td>
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<tr>
<td>Final exam</td>
<td>60%</td>
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<td>Other assignments*</td>
<td>10%</td>
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**TOTAL:** 100%

*“Other assignments” include, but are not limited to, legal analysis exercises and pop quizzes. These assignments will be discussed in class.*
ACCOMMODATIONS

A student who requires special accommodations must complete the necessary forms with the Dean's office. The student’s application and documentation will remain confidential. Prompt attention will allow the Law School to accommodate any special-needs student as soon as it has been made aware of the student’s situation.

Please see: http://www.tsulaw.edu/academics/18SuAccommodationdInformationWeb.pdf

If a student has an emergency or otherwise needs special accommodation (such as a time extension or a note taker), the student should contact Dean Virgie Mouton (Student Affairs) to get approval and then contact the Professor before any exam date or any related assignment is due.

Dean Mouton
Assistant Dean for Student Development and Academic Support
Phone: 713.313.7909  Email: vmouton@tmslaw.tsu.edu

PROFESSIONALISM

Law students should conduct themselves in class with utmost professionalism.

PROFESSIONALISM. MEANS ADULT BEHAVIOR AT ALL TIMES. Examples of “unprofessional conduct” include, but are not limited to:

a. sighing out loud in class or making other inappropriate outbursts;

b. checking out of class after instruction has begun (unless one must use the restroom or one has a medical problem and has received an accommodation from the Dean of Students);

c. permitting a cell phone or other electronic device to ring during class;

d. surfing the internet;

e. viewing material on one’s laptop or smart electronic device;

f. using profanity or offensive language during class; and

g. engaging in a verbal or physical altercation in class.

As a general rule, in gauging what constitutes unprofessional behavior, a student should ask himself or herself whether the questionable conduct would be acceptable in a court of law. If it would be inappropriate in court or in a professional setting, the conduct should not be engaged in. A student
who displays unprofessional conduct during class will be asked to leave class or online participation and will be marked absent for the entire class period.

**GUN-FREE ZONES**

Texas law permits a student to carry a concealed firearm on campus into areas that have not been designated as gun-free zones, provided that the student has a Texas license to carry a concealed gun.

Professor Kelly’s office is a gun-free zone; it is thus unlawful to carry a firearm inside her office irrespective of whether a student has a license to carry. Bringing a firearm into her office or any other designated gun-free zone on campus could lead to criminal charges or expulsion from Texas Southern University.

For a complete list of the gun-free areas on campus and the rules governing campus carry at this university, one should visit Texas Southern University’s website at [http://www.tsu.edu/](http://www.tsu.edu/).

**POLICIES AND PROCEDURES**

**Exam Numbers**

Students are required to use an anonymous exam number when completing exams or submitting most assignments for Conflict of Laws. Students can obtain exam numbers from the Registrar’s Office. Students will be instructed when each exam number is ready for distribution.

**Assessment**

LP II is designed to help students acquire and develop the skills necessary to engage in the practice of law effectively, efficiently, and ethically. In order to help students meet that goal, course assignments have been designed to develop and practice analytic skills and then analyze the strengths and weaknesses of the application of those skills as the semester progresses. The course proceeds as a new lawyer will proceed in practice.

Just as in law practice, students will encounter three basic ways to assess and thereby be able to improve upon their work. First, assessment be made by those assigning the work; second, by peers; and finally, and perhaps most importantly, by the student writer himself or herself. Each of these methods of assessing a student’s work provides the opportunity to reflect upon the student’s skill set and make adjustments where necessary. In order to be prepared to practice law, it is critical that students take full advantage of these assessment opportunities. In order to help students recognize these opportunities as they arise in this Conflicts course, each is discussed briefly below.

1. **Faculty assessment:** Students will receive evaluations from the professor in several forms, each of which is designed to help students assess their progress and improve upon their work:
a. **Individualized assessment and written evaluation and comment**: On major exams, students will receive written evaluation and comment. The comments will not give the writer “the answers”; rather, they will help the writer ask himself or herself the necessary questions to discover how to improve the work product.

b. **Group assessment and written and oral evaluation**: On some assignments, the professor will ask the class to provide written or oral commentary. The purpose of such group commentary is twofold: first, it allows students to review their work with a critical eye so they can learn to identify and remedy weaknesses; second, by understanding the weaknesses in other students’ work, students should become aware of mistakes to avoid.

c. **Individual meetings and oral comment**: Each student may meet with the professor individually to discuss performance on exams or assignments.

2. **Peer assessment**: Students may receive critiques and comments from their peers throughout the semester.

3. **Self assessment**: Students will be encouraged to engage in self-assessment throughout the semester. Students will receive a writing sample or checklist to help with editing and refining their work. The professor will provide model answers or annotated responses to exams and writing exercises.
Paper format requirements

The following format requirements for Conflict of Laws are based on the general rules for filing documents in most state and federal courts. If any student has any questions regarding the requirements or the guidelines on any individual assignment, the student should ask the professor. Unless otherwise specified, each piece of written work submitted must meet the following format requirements:

a. **Word.** All documents must be typed using Microsoft Word.

b. **TNR on plain paper.** All documents must be typed in Times New Roman font and submitted on plain white, 8-1/2 x 11 inch paper (using one side only).

c. **Font size.** The font size must be 12 point and footnotes (if any) may be no smaller than 10 point font.

d. **Margins.** Papers must have at least one-inch margins on both sides and at the top and bottom.

e. **Number of lines.** No page may include more than 25 lines per page (including footnotes).

f. **Spacing.** Lines of text must be double-spaced. Footnotes must be single-spaced.

g. **Sentence spacing.** There must be at least one space between sentences, including citation sentences. This means the space bar must be hit once. Tabs, such as those used to begin a new paragraph, must be at least a ½ inch in length.

h. **Pagination.** Each assignment must be consecutively paginated at the bottom of each page (centered).

i. **Submission.** An electronic copy of each assignment must be submitted by the deadline for submission on the due date and time.

j. **No hanging headers.** There should be no hanging headers (a heading or caption at the bottom of the page without at least one line of text).

k. **Stapling.** All pages of hard copies, if requested, each assignment must be stapled together (in the upper left-hand corner).
Class attendance

Class attendance is mandatory. Roll will be taken at the beginning of each class. Under the Student Rules and Regulations, a student will be permitted three absences for Conflict of Laws, a three-hour course. Tardiness will be considered an absence, as will any departure from class or any dismissal for misconduct or lack of proper preparation. The class attendance rule in the Student Rules is strictly enforced and grades are subject to reduction for missed classes.

No cell phone misuse

Cellphones are not allowed in class unless a specific exception is granted by the professor. Cell phones, blackberries, and similar devices must be turned off.

Collaboration

Students may discuss some course assignments with their class members. Students can learn from each other and will benefit more from the course if they approach the course content collegially. Indeed, collegiality is typical in the real-life-practice of law, as it is not uncommon to discuss and test legal approaches with colleagues. The final written product on all tests and assignments, however, must be the student’s own work.

Students will be notified when collaboration on an assignment is permitted. Unless so notified, students should assume that collaboration with each other (or anyone else for that matter) is disallowed. Exchanging ideas with others on an assignment where collaboration is prohibited will be considered cheating and will result in grade deduction.

Plagiarism

Plagiarism in any form is strictly prohibited and will not be tolerated. Students may not plagiarize any other written work, including, but not limited to, all or any part of another student’s writing, a prior exemplar or sample, an internal legal memorandum or trial brief, or any memorandum of points and authorities or trial brief filed with any court. Any instance of plagiarism will be given no credit (“0”) for the assignment and the matter may be forwarded to the Dean or Honor Court for appropriate action.
**Letters of recommendation**

The LP II professor will write letters of recommendation upon request, provided that the student: (1) earns a B or higher in Conflicts and (2) has not displayed conduct unbecoming of an attorney. Letters of recommendation will not be written for a student to transfer to another law school.

**Changes and supplements to the Syllabus**

Topics and assignments for the first four weeks of classes are provided in this initial Syllabus. The class topics and assignments for Week 5 through the end of the Fall 2020 semester will be provided in a Supplement posted and available to students no later than September 3, 2020.

The professor reserves the right to make substantive changes to the Conflicts Syllabus and schedule at any time. Students will receive reasonable notice of any change.
TUESDAY, August 11, 2020 (Class 1)

Topic: Ch. 1--Course introduction.
Hypotheticals 1-1 through 1-5

THURSDAY, August 13, 2020 (Class 2)

Topic: Ch. 2--Lex Fori
Read: *Lex Fori* Approach, pp. 9-28
Hypotheticals 2-1 through 2-6
WEEK 2

TUESDAY, August 18, 2020 (Class 3)

Topic: Ch. 2--Lex Fori (cont.)
Read: Hypotheticals 2-7 through 2-9

THURSDAY, August 20, 2020 (Class 4)

Topic: Ch. 3--Modeling Choice of Law Methodologies
Read: Modeling COL, pp. 31-41
Hypothetical 3-1
WEEK 3

TUESDAY, August 25, 2020 (Class 5)

Topic: Ch. 4--Traditional Approach
Read: Traditional/ First Rest., pp. 43-57
Hypotheticals 4-1 through 4-5
Raskin v. Allison, p. 57
Brown v. Kleen Kut Manuf, Co., p. 63

THURSDAY, August 27, 2020 (Class 6)

Topic: Ch.5--Interests
Read: Interest Analysis, pp. 75-89+
Hypotheticals 5-1 and 5-2
Superior Court of Sacramento County v. Hurtado, p. 90
Bernhard v. Harrah’s Club, p. 94

WEEK 4

TUESDAY, September 1, 2020 (Class 7)

Topic: Ch. 5--Interests (cont.)
Read: Hypotheticals 5-3 and 5-4

THURSDAY, September 3, 2020 (Class 8)

Topic: Ch. 6--Center of Gravity
Read: Center of Gravity, pp. 113-121+
Hypotheticals 6-1 through 6-3

*Podlin v. Ghermezian*, p. 122


*Note: The topics and reading assignments for weeks 5 through the end of the semester will be specified in a Supplement to this Syllabus. The Supplement will be available on September 3, 2020.*

**WEEK 5**

**TUESDAY, September 8, 2020 (Class 9)**

TBA

**THURSDAY, September 10, 2020 (Class 10)**

TBA
WEEK 6

TUESDAY, September 15, 2020 (Class 11)

TBA

THURSDAY, September 17, 2020 (Class 12)

TBA
WEEK 7

TUESDAY, September 22, 2020 (Class 13)

TBA

THURSDAY, September 24, 2020 (Class 14)

TBA
WEEK 8

TUESDAY, September 29, 2020 (Class 15)

TBA

THURSDAY, October 1, 2020 (Class 16)

TBA
WEEK 9

TUESDAY, October 6, 2020 (Class 17)

Mid-Term Exam

THURSDAY, October 8, 2020 (Class 18)

TBA
WEEK 10

TUESDAY, October 13, 2020 (Class 19)

TBA

THURSDAY, October 15, 2020 (Class 20)

TBA
WEEK 11

TUESDAY, October 20, 2020 (Class 21)

TBA

THURSDAY, October 22, 2020 (Class 22)

TBA
WEEK 12

TUESDAY, October 27, 2020 (Class 23)

TBA

THURSDAY, October 29, 2020 (Class 24)

TBA
WEEK 13

TUESDAY, November 3, 2020 (Class 25)

Last Day of class—Review for Final Exam

THURSDAY, November 5, 2020 (Class 26)

No Class—Reading Period

November 5-9, 2020---Final Examinations

The date and time of the Conflicts Final Examination ---TBA