

O'Hara and Ribstein on Conflict Rules and Global Competition

Erin A. O'Hara, who is a professor of law at Vanderbilt Law School, and Larry E. Ribstein, who is a professor of law at the University of Illinois College of Law, have posted *Exit and the American Illness* on SSRN. Here is the abstract:

This essay, prepared for a book on the effect of regulatory, liability, and litigation inefficiencies on the global competitive position of the U.S., focuses on the role of the US federal system. We show that, although multiple US states offer significant potential for jurisdictional choice to address misguided or inappropriate law, this system is only a partial solution to these problems and can itself be a source of bad law and excessive litigiousness. Federal law and enforcement of contractual choice-of-law, choice-of-court, and arbitration clauses provide some, but only partial, relief. As a result, choice of law and jurisdiction rules potentially expose firms that do business nationally or internationally to oppressive law in any of the US states. Without reform of the rules regarding jurisdictional choice the US is losing an opportunity to exploit the edge in international competition it might get from its federal system.