

Professor Ron Brand on “The Continuing Evolution of U.S. Judgments Recognition Law”

Professor Ronald A. Brand, the Chancellor Mark A. Nordenberg University Professor and the Director of the Center for International Legal Education at the University of Pittsburgh School of Law, has just posted a new article to SSRN regarding the “Continuing Evolution of U.S. Judgments Recognition Law.” It is available for download [here](#). It generally deals with the history of such law from *Hilton v. Guyot* to the present day, demonstrates some of the problems indicated by recent cases, and comments on the federalism concerns that are delaying the ratification of the 2005 Hague Choice of Courts Convention in the United States. A more detailed abstract is below.

The substantive law of judgments recognition in the United States has evolved from federal common law, found in a seminal Supreme Court opinion, to primary reliance on state law in both state and federal courts. While state law often is found in a local version of a uniform act, this has not brought about true uniformity, and significant discrepancies exist among the states. These discrepancies in judgments recognition law, combined with a common policy on the circulation of internal judgments under the United States Constitution’s Full Faith and Credit Clause, have created opportunities for forum shopping and litigation strategies that result in both inequity of result and inefficiency of judicial process. These inefficiencies are fueled by differences regarding (1) substantive rules regarding the recognition of judgments, (2) requirements for personal and quasi in rem jurisdiction when a judgments recognition action is brought (recognition jurisdiction), and (3) the application of the doctrine of forum non conveniens in judgments (and arbitral award) recognition cases. Recent cases demonstrate the need for a return to a single, federal legal framework for the recognition and enforcement of foreign judgments. This article reviews the history of U.S. judgments recognition law, summarizes current substantive law on the recognition and enforcement of foreign judgments, reviews recent decisions that demonstrate the three specific problem areas, and proposes a coordinated approach using federal substantive law on judgments recognition and state law on related matters in order to

eliminate the current problems of non-uniformity and inefficient use of the courts.