

Observations from the Intersection of Private International Law and Civil Procedure in the USA

Richard D. Freer (*Emory University*) has posted an article on SSRN entitled, **“Pondering the Imponderable and Other Observations from the Intersection of Conflicts and Civil Procedure”**. The abstract reads:

In honor of the scholarship of Peter Hay, this essay explores some substantive areas of interest to scholars both of conflict of laws and civil procedure, including full faith and credit, federal common law, claim and issue preclusion, the Erie doctrine, and the efficient packaging of complex litigation. Though some have criticized conflict of laws scholarship as basing theory upon fact patterns that do not arise in the empirical world, this essay points out that Supreme Court treatment of full faith and credit has created real-world problems for which governing law simply cannot exist. In addition, while procedure often creates a structure permitting joinder of related claims in a single case, choice of law doctrine defeats the goal of efficiency by requiring the application of different substantive law. Moreover, the Supreme Court instruction to apply federal common law to determine the preclusive effect of a federal civil judgment creates an ersatz body of law by engaging in the assumption that state law provides the content of the federal prescription.

The full article is available [here](#).