

The Quest for the Optimum in Resolving Product-Liability Conflicts

Symeon C. Symeonides (*Williamette University, College of Law*) has just posted "**The Quest for the Optimum in Resolving Product-Liability Conflicts**" on SSRN. Here's the abstract:

This essay reports the findings of a comprehensive study of product-liability conflicts cases decided by American courts from 1990 to 2004. One of the findings is that choice-of-law methodology plays a less significant role in the courts' choice of the governing law than other factors, such as the number and pertinence of factual contacts with a given state.

For example, regardless of methodology, in 79% of the cases in which the product's acquisition and the victim's domicile and injury were in the same state, the courts applied that state's law, regardless of whether it favored the plaintiff or the defendant, and regardless of whether that state was also the forum. Another finding is that, contrary to prevailing perceptions, American courts do not unduly favor plaintiffs as a class, nor the law or the domiciliaries of the forum state. Indeed, on the whole, the record of American courts in resolving these most intractable of conflicts is much better than one might assume from a selective reading of a few cases.

However, this record comes at a heavy cost in time and resources for courts and litigants. One way to remedy this problem is to provide courts with specific guidance in the form of choice-of-law rules. This essay proposes such a rule, and then examines how that rule would have resolved the cases of the study period. The answer: much in the same way (good or bad), but much more quickly, and at a lower cost.

You can download the full article [here](#). The paper forms part of the forthcoming publication, *ESSAYS IN HONOR OF JOHN P. KOZYRIS*, Ana Grammatikaki-Alexiou, ed., Sakoulas-Kluwer Publishers, 2006. Recommended reading.