Choice of Law in the American Courts in 2008

Symeon Symeonides has posted the twenty-second instalment of his annual survey on US choice of law decisions on SSRN. Here's the abstract:

> *This is the Twenty-Second Annual Survey of American Choice-of-Law Cases. It covers cases decided by American state and federal courts from January 1 to December 31, 2008, and reported during the same period. Of the 3,249 conflicts cases meeting both of these parameters, the Survey focuses on those of the 1023 appellate cases that may add something new to the development or understanding of choice of law. The Survey is intended as a service to fellow teachers and students of conflicts law, both within and outside the United States. Its purpose is to inform, rather than to advocate.*
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> *The following are among the cases discussed in this Survey: Two U.S. Supreme Court cases and several intermediate court cases delineating the extraterritorial reach of the Constitution and federal statutes, and one Supreme Court case on the domestic effect of a judgment of the International Court of Justice; A New Jersey Supreme Court case abandoning Currie's interest analysis in tort conflicts in favor of the Restatement (Second), and a New Mexico Supreme Court case abandoning the traditional approach in contract conflicts (but only in class actions) and adopting the "false conflict doctrine" of the Restatement (Second); Several cases applying (and one not applying) the law of the parties' common domicile to torts occurring in another state; Cases involving cross-border torts and applying the law of whichever of the two states (conduct or injury) favors the plaintiff; Product liability cases granting forum non conveniens dismissals in favor of alternative fora in foreign countries and those countries' responses by enacting "blocking" statutes; Cases refusing to enforce clauses precluding class-action or class-arbitration; Cases illustrating the race to the courthouse between insurers and their insureds; Cases recognizing Canadian or Massachusetts same-sex marriages, and a case refusing to recognize a Pakistani talaq (unilateral, non-judicial divorce); and a case refusing to recognize a foreign judgment that conflicted with a previous judgment from another country.*

The survey is forthcoming in the *American Journal of Comparative Law* (vol. 57, 2009), but you can also download it for free from SSRN. (*Bonus link: here's our item on last year's survey, and here's the one from 2006*.) As always, highly recommended.