

Borchers on Punitive Damages

Patrick J. Borchers, who is the Dean of Creighton University School of Law, has posted *Punitive Damages, Forum Shopping and the Conflict of Laws* on SSRN. The abstract reads:

*Few issues have as profound an impact on civil litigation as the availability and dimensions of punitive damages. States, however, vary considerably on whether punitive damages are allowed, the quantum and burden of proof necessary to establish liability for them, their insurability and the standard of appellate review of their award. Because of the high stakes involved, all three of the traditional branches of the discipline of the conflict of laws — jurisdiction, choice of law and judgment recognition — are directly involved. Civil plaintiffs naturally seek to find courts that will be hospitable to their attempted assertion of punitive damage liability and civil defendants are equally anxious to avoid such courts. The practice of attempting to find a friendly court is known colloquially as “forum shopping.” This article examines how the branches of the conflict of laws are implicated in this high stakes battle and also examines what implications the Supreme Court’s decision in *State Farm Mutual Automobile Insurance Co. v. Campbell*, 538 U.S. 408 (2003) has for conflicts issues in the punitive damage wars.*

The paper, which is forthcoming in the *Louisiana Law Review*, can be downloaded [here](#).