

Hoffheimer on Conflicting Rules of Interpretation

Michael Hoffheimer, who is a professor at the University of Mississippi Law School, has posted *Conflicting Rules of Interpretation and Construction in Multi-Jurisdictional Disputes* on SSRN. The abstract reads:

This paper discusses history of choice of law rules for interpreting ambiguous language and criticizes current approaches that apply foreign rules of interpretation and construction when doing so frustrates the intent of parties.

And from the introduction:

This Article concludes that courts should routinely apply their own forum law to matters of interpretation and construction in the absence of a good reason for applying a different foreign rule. In principle, there are good reasons for applying the law chosen by the parties, but it makes no sense to apply such law when it frustrates their intent or effectively renders a contract illusory. A forum's own principles of interpretation will be flexible enough to take into consideration any foreign law relied on by drafters, just as they will be flexible enough to consider the meaning of foreign words and phrases.