

Little on Internet Defamation in the US Conflict of Laws

Laura E. Little, who is a professor of law at Temple University, has posted Internet Defamation, Freedom of Expression, and the Lessons of Private International Law for the United States on SSRN.

This article reviews current developments in U.S. conflict of laws doctrine pertaining to transnational internet defamation cases, including personal jurisdiction, choice of law, and recognition of judgments. To resolve personal jurisdiction and choice of law issues in internet defamation cases, U.S. courts have adapted rules from the non-internet context with relative ease. Reported cases tend to concern domestic internet disputes between U.S. entities, with few plaintiffs attracted to U.S. courts for the purpose of litigating cross-border defamation claims. Although the U.S. serves as a magnet jurisdiction for many types of litigation, two liability-defeating laws render the country inhospitable to defamation claims: (1) the U.S. Constitution's First Amendment speech protections and (2) a statute affording immunity to internet "providers or users" for information "provided by another content provider." Perhaps because of these provisions litigants are largely inspired to go elsewhere. The resulting libel tourism has prompted important U.S. developments pertaining to enforcement and recognition of foreign defamation judgments. Thus, for conflict of laws matters pertaining to internet defamation, it is judgments law that reflects the greatest activity and most profound change.

After reviewing personal jurisdiction and choice of law trends, this article describes legal developments pertaining to internet defamation judgments. The article critiques lawmakers' adherence to First Amendment exceptionalism in regulating internet defamation judgments and identifies flaws reflected in state libel tourism statutes and the federal libel tourism statute, the SPEECH act of 2010.

The paper is forthcoming in the *Yearbook of Private International Law* (vol. 14).