

F k r l f h # r i # 0 d z # l q # z u r q j i x c # G h d w k # F d v h v



Carlos R. Soltero
Vanessa A. Suarez



VR OWHUR #VDS LUH#P X U U H O O # S O O F
: 6 5 3 # Q r u w k # P r S d f # H { s u h v v z d | / # V x l n h # 6 3 <
D x v u i j / # W h { d v # : ; : 6 4
W = # 4 5 0 7 5 5 0 4 8 8 <
I = # 4 5 0 6 8 < 0 : < < 9
z z z l v p a i z | h u v i f r p

Choice of Law Issues-General

- Anti-ET Presumption
- Texas courts apply
 - Texas procedural law, but
 - The Wrongful Death Act commands that Texas courts “***shall apply*** the rules of substantive law that are appropriate under the facts of the case.”

TEX. CIV. PRAC. & REM. CODE §71.031(b) and (c).

Forum non conveniens—not if Texas resident beneficiary
In re Mahindra (Tex. 2018)



Policy considerations

It is a firmly established principle of American jurisprudence that the laws of one state have no extra-territorial effect in another state...

Indeed, this Court is reminded of the oft-paraphrased advice of St. Ambrose, Catholic bishop of Milan in the fourth century, to St. Augustine. 'When you are in Rome, live in the Roman style; when you are elsewhere, live as they do elsewhere.'

Brennan v. Univ. of Kansas (10th Cir. 1971)



3

3

Policy considerations

The decedent's domicile solely determine choice of law Judge Posner has remarked that a plaintiff cannot expect to travel:

carrying his domiciliary law with him, like a turtle's house, to every country he visit[s]...[and cannot be] cocooned in Illinois law, like citizens of imperial states in the era of colonialism who were granted extraterritorial privileges.

Spinozzi v. ITT Sheraton (7th Cir. 1999).



4

Gutierrez v. Collins (Tex. 1979)



- Choice of law—
 - No longer *lex loci delicti*
 - “Most Substantial Relationship”



- Dissimilarity Doctrine

- Restatement



5

5

Restatement 6(2) (General Provisions)

- The needs of the interstate and international systems,
- The relevant policies of the forum,
- The relevant policies of other interested states and the relative interests of those states in the determination of the particular issue,
- The **protection of justified expectations**,
- The basic policies underlying the particular fields of law,
- Certainty, **predictability, uniformity of result**, and
- Ease in determination and application of the law** to be applied.

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Choice of Law and Issues that Arise with Witnesses and Beneficiaries in a Wrongful Death Case

Also available as part of the eCourse

[Choice of Law and Issues that Arise with Witnesses and Beneficiaries in a Wrongful Death Case](#)

First appeared as part of the conference materials for the 2021 Choice of Law and Issues that Arise with Witnesses and Beneficiaries in a Wrongful Death Case session

"Choice of Law and Issues that Arise with Witnesses and Beneficiaries in a Wrongful Death Case"