

**PRIVATE INTERNATIONAL LAW**  
**PROFESSOR STRONG**  
**SPRING 2024**

**EXAM NUMBER** \_\_\_\_\_

**INSTRUCTIONS**

- You are bound by the Honor Code and may not give or receive assistance with the exam.
- The exam is **modified closed book**. You may use any hard copy (printed) material that you bring with you into the exam. If you are expected to parse any particular legal authorities, those will be provided to you along with the examination papers. The provision of particular authorities should not be taken to mean that those are the only authorities you can or should discuss in your responses.
- You may only bring your laptop, a pen, and something to drink into the exam unless you have an approved accommodation. You may **not** have any electronic devices, including cell phones and smart watches.
  - **If you bring anything other than the above permitted items into the exam room, you will automatically receive a grade of “F” on the exam.**
- Please write your exam number legibly on this cover page of the exam booklet in the space provided at the top right-hand corner.
- After the exam, you must return the exam.
  - **If you fail to turn in all pages of your examination, or if you remove the exam from the examination room at any time, you will receive a grade of “F.”**
  - Do not unstaple the exam or separate the pages.
- The entire exam is worth 50 points and includes four questions, not including subparts. Point allocations are listed next to each question.
  - Each major question is worth 12.5 points.
  - Subparts within a major question are weighed equally.
  - Suggested time for each 12.5-point question: 45 minutes.
- In writing your answers:
  - Type your answer in EBB unless software or hardware problems require you to hand-write your responses.
  - If you must hand-write your answer:
    - Use a bluebook;
    - Write on only one side of the page; and
    - Write on every other line.
  - You may use any abbreviated terms indicated in the questions or any terms you have explicitly defined.
  - Provide supporting authority (cases, statutes, treaties, soft law and/or commentary) as part of your arguments.
    - You **do not need** to provide full Bluebooked citations and **do not need** to use footnotes. Short-form authorities in the body of the text are fine and are preferred.
    - When referring to cases, you can provide both parties’ names (e.g., Wiley E. Coyote v. Acme Co.), one party’s name (e.g., Coyote or Acme), or a brief reference to the facts so long as the reference is clear (e.g., “the case where Coyote gets squashed” may be enough; however,

if there are two similar cases, you may need to say whether Coyote was squashed by a box or a train).

- When referring to authorities other than case law, provide enough information so that the authority can be clearly identified.
- Write concisely, precisely, and clearly.
  - There are no word or page limits suggested here, but long, rambling answers tend not to work to your benefit, since they are not as professional or persuasive as tightly drafted prose. Conversely, extremely short answers – particularly those that jump straight to a conclusion without showing your support or reasoning – tend not to win maximum points.
  - What you leave out is as important as what you put in. Avoid irrelevant discussions, since those will not win you any points, even if the points made are true as a matter of law.

**Good luck!**

**\*\*Honor Code Pledge: I acknowledge that in this, as in all other law school activities, I am bound by the Emory Law School Code of Professional Conduct.\*\***

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**Signed (exam number ONLY, not your name)**

The Ojibwe are an Indigenous people that includes various constituent tribes in both the United States and Canada. The Ojibwe have traditionally been known for their high-quality birchbark canoes.

One Ojibwe tribe, the Mississauga of Scugog Island (MSI), resides on a tribal reserve in Ontario, Canada. For purposes of this exam, you can assume that the Canadian approach to First Nations is the same as the United States approach.

Another Ojibwe tribe, the Fond du Lac Band of Lake Superior Chippewa (FDL), is based on a reservation located in Fond du Lac, Wisconsin. MSI and FDL decided to create a Wisconsin-based joint venture company known as Ojibwe Canoes that produces traditional-style birchbark canoes for sale to individuals, retail outlets and other customers in the United States and Canada. The joint venture agreement between MSI and FDL indicates that the two tribes are jointly and severally liable for any debts the company may incur.

In 2023, Ojibwe Canoes sold thirty canoes to Wilderness Adventures, a Michigan-based company that offers historical, 19th-century-style outdoor adventure trips to groups and individuals. Each canoe was handcrafted and produced specifically for Wilderness Adventures. When Wilderness Adventures tried to use the canoes on its trips on Lake Michigan, customers found the canoes to be leaky and nearly impossible to row.

When Wilderness Adventures tried to return the canoes for a refund, Ojibwe Canoes told Wilderness Adventures that traditional birchbark canoes need to have resin reapplied almost daily to remain water-tight. Furthermore, crews must be in excellent physical condition to maintain the high rowing rate (40-45 strokes per minute) needed to move heavily-loaded, large-group canoes through the water. Wilderness Adventures says it was not told anything about these two criteria when it bought the canoes.

After a failed attempt at mediation, Wilderness Adventures filed an action against Ojibwe Canoes in the U.S. District Court for the Eastern District of Wisconsin, claiming the canoes were not fit for the purpose for which they were intended. Wilderness Adventures joined MSI and FDL in the action, since they were jointly and severally liable for any judgment rendered against Ojibwe Canoes.

MSI and FDL refused to attend the hearing, claiming sovereign immunity. Wilderness Adventures prevailed in its action, and a joint and several judgment against Ojibwe Canoes, MSI and FDL was rendered in the amount of \$1.2 million in U.S. dollars (the Wisconsin Judgment). Ojibwe Canoes can only pay \$200,000 of the judgment, leaving \$1 million to be enforced against MSI and/or FDL.

**Question 1 (12.5 points)**

Wilderness Adventures brings an action in the U.S. District Court for the Eastern District of Michigan to enforce the Wisconsin Judgment against MSI. Jurisdiction is based on the presence of several cultural artefacts that MSI loaned to the Detroit City Museum in 2022. The artefacts are part of a special exhibition with a separate admission fee, and MSI is paid 10% of each admission ticket, which almost but doesn't quite offset MSI's insurance and

transportation costs. MSI appears solely to contest the jurisdiction of the Michigan District Court on the grounds of sovereign immunity.

How should the Michigan District Court decide? Consider all relevant authorities in your answer and outline any assumptions you are making. Some potentially relevant authorities have been provided.

**Question 2 (12.5 points)**

Wilderness Adventures brings an action in the U.S. District Court for the Eastern District of Wisconsin to enforce the Wisconsin Judgment against FDL against assets located on the FDL reservation. FDL appears solely to contest the jurisdiction of the Wisconsin District Court on the grounds of sovereign immunity.

How should the Wisconsin District Court decide? Consider all relevant authorities in your answer and outline any assumptions you are making. Some potentially relevant authorities have been provided.

**Question 3 (12.5 points)**

Assume for purposes of both this question and Question 4 below that MSI filed suit in MSI tribal court against Wilderness Adventures during the pendency of the initial action in the Wisconsin District Court. MSI's suit asserted both a breach of contract claim and a defamation claim. Since Canada and the United States are both states parties to the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (Hague Service Convention), MSI seeks to serve Wilderness Adventures in Michigan using that convention.

Please describe (a) what steps MSI must take to serve Wilderness Adventures in Michigan and (b) what strategic response Wilderness Adventure might take in response to the suit in tribal court. Consider all relevant authorities in your answer and outline any assumptions you are making.

**Question 4 (12.5 points)**

Assume for purposes of this question only that Wilderness Adventures was properly served in the suit proceeding in MSI tribal court. However, Wilderness Adventures refused to appear in that matter.

The MSI tribal court entered judgment in favor of MSI on both counts. Compensatory damages were awarded in the amount of \$1 million U.S. dollars for the breach of contract claim and \$50,000 U.S. dollars for the defamation claim. The MSI tribal court judgment was rendered two months after the Wisconsin Judgment was rendered. MSI has brought an action in Michigan state court, asking for the MSI tribal court judgment to be recognized and enforced against Wilderness Adventures.

Please describe (a) what defenses Wilderness Adventures will likely raise and (b) how the Michigan state court is likely to decide. Consider all relevant authorities in your answer and outline any assumptions you are making. Some potentially relevant authorities have been provided.