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1973

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Recommended Citation

Editorial Board, Minn. L. Rev., "Conflict of Laws: Minnesota Rejects the Significant Contacts Doctrine in Favor of the Better Law Test" (1973). *Minnesota Law Review*. 3040.
https://scholarship.law.umn.edu/mlr/3040

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Case Comment

Conflict of Laws: Minnesota Rejects the "Significant Contacts" Doctrine in Favor of the "Better Law" Test

Plaintiff automobile guest and defendants automobile owner and driver, all residents of Ontario, Canada, began a day-long shopping and pleasure trip from Ontario to Duluth, Minnesota. When the car went off the road in Minnesota, the plaintiff was seriously injured. She brought suit in Minnesota against the owner and driver of the automobile, which was registered, insured, and garaged in Ontario. Because Ontario has a guest statute requiring proof of gross negligence,[1] which was not alleged, defendants moved to dismiss for failure to state a claim and advanced the affirmative defense that the law of Ontario should apply. The trial court denied the defendants' motion to dismiss and struck their affirmative defense.[2] The Supreme Court of Minnesota, per Todd, J., affirmed, *holding* that where an accident occurs in this state, Minnesota courts should apply Minnesota negligence law rather than another jurisdiction's guest statute even though all the parties are residents of the other jurisdiction and the automobile is licensed, garaged, and insured there. *Milkovich v. Saari*, —Minn. —, 203 N.W.2d 408 (1973).

The traditional tort conflict-of-laws rules dictated that the law of the place of injury governed an action.[3] However, this "lex loci" doctrine of vested rights[4] was increasingly criticized

1. ONTARIO REVISED STATUTES 1970, ch. 202, § 132(3), reads: Notwithstanding Subsection 1, the owner or driver of a motor vehicle, other than a vehicle operated in the business of carrying passengers for compensation, is not liable for any loss or damage from bodily injury to, or the death of any person being carried in, or upon, or entering, or getting onto, or alighting from a motor vehicle, except where such loss or damage was caused or contributed to by the gross negligence of the driver of the motor vehicle.

2. The trial court certified the question to the Supreme Court as important and doubtful.

3. Minnesota's adherence to this doctrine was stated as recently as Phelps v. Benson, 252 Minn. 457, 90 N.W.2d 533 (1958). The traditional rule was embodied in RESTATEMENT, CONFLICT OF LAWS § 378 (1934), which specified the rule governing liability for tort as the "law of the place of wrong."

4. The vested rights doctrine treats the rights of parties to an

as being unresponsive to the actual interests of the parties.[5] The rejection of lex loci was signaled by the New York Court of Appeals decision in *Babcock v. Jackson*.[6] In holding that New York would apply its own law to a suit between a New York plaintiff and a New York defendant arising out of an accident in Ontario, the New York Court of Appeals stated that it would look to the law of the jurisdiction with the "most significant contacts" with the occurrence and the parties. Though the court in *Babcock* was unclear in its application of the "most significant contacts" test, in a series of later cases New York courts analyzed, explained, and finally set down guidelines interpreting *Babcock* and its progeny.[7] The "most significant contacts" test was to be

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event as having "vested" according to the law of the place of the occurrence. Thus, the court hearing a suit brought on the transaction or event merely discovers what rights and obligations were created under the law of the state of occurrence and applies the law of that state. *See* R. LEFLAR, CONFLICT OF LAWS § 3 (1959); A. EHRENZWEIG, CONFLICTS IN A NUTSHELL § 6 (1965).

5. *See, e.g.*, B. CURRIE, SELECTED ESSAYS ON THE CONFLICTS OF LAWS (1963); Cheatham & Reese, *Choice of the Applicable Law*, 52 COLUM. L. REV. 959 (1952); Cavers, *A Critique of the Choice of Law Problem*, 47 HARV. L. REV. 173-208 (1933).

6. 12 N.Y.2d 473, 240 N.Y.S.2d 743, 191 N.E.2d 279 (1963).

7. Following the 1963 decision in *Babcock v. Jackson*, *id.*, New York was faced with a case involving two New York citizens who met while living in Colorado attending school. The car was registered, insured and licensed in New York. Plaintiff guest sued in New York for a Colorado accident and the Court of Appeals applied the Colorado guest statute to bar the action. Dym v. Gordon, 16 N.Y.2d 120, 262 N.Y.S.2d 463, 209 N.E.2d 792 (1965). However, the very next year the court decided Macey v. Rozbicki, 18 N.Y.2d 289, 274 N.Y.S.2d 591, 221 N.E.2d 380 (1966). There New York residents were involved in an accident in Ontario in a car registered, insured, and garaged in New York. In this case the court indicated that the place where the relationship originated was no longer controlling and applied New York law. Next, a New York Supreme Court, attempting to interpret these decisions, applied New York law to an accident occurring in New York where all parties were residents of Ontario and the car was registered, insured, and garaged in Ontario. Kell v. Henderson, 47 Misc. 2d 992, 263 N.Y.S.2d 647 (1965), *aff'd*, 26 App. Div. 2d 595, 270 N.Y.S.2d 552 (1966). In 1969, however, the Court of Appeals in Tooker v. Lopez, 24 N.Y.2d 569, 301 N.Y.S.2d 519, 249 N.E.2d 394 (1969), reconsidered its decision in *Dym v. Gordon* and applied New York law to allow recovery by a New York plaintiff against a New York defendant for an accident which occurred in Michigan where both parties had been residing. Based on this new analysis, another New York Supreme Court distinguished *Kell v. Henderson* on procedural grounds and applied Ontario law on facts essentially identical to *Kell* in Arbuthnot v. Allbright, 35 App. Div. 2d 315, 316 N.Y.S.2d 391 (1970). In the latest pertinent New York case, Neumeier v. Kuehner, 335 N.Y.S.2d 64 (1972), the Court of Appeals applied Ontario law to bar an Ontario guest from recovering from a New Yorker following an Ontario accident, and the court set forth

applied not merely by counting contacts but by finding contacts which advanced relevant state policies.[8]

In *Balts v. Balts*[9] in 1966, Minnesota first followed the *Babcock v. Jackson* test and rejected the lex loci doctrine.[10] In a companion case, *Kopp v. Rechtzigel*,[11] the court applied Minnesota negligence law rather than a South Dakota guest statute to a suit between Minnesota domiciliaries[12] even though the accident had occurred in South Dakota. In 1968, the Minnesota court again held that Minnesota law rather than a North Dakota guest statute governed where an accident which occurred in North Dakota injured the plaintiff guest, a Minnesota resident.[13] Similarly, in 1972 the court applied Minnesota law rather than the guest statute of the places of injury, North Dakota and Nevada, when Minnesota plaintiffs or defendants were involved, and all parties had strong Minnesota connections.[14] Thus by 1972 Minnesota had clearly adopted the "significant contacts" test to determine choice of law.

In *Milkovich v. Saari*[15] the Minnesota court was for the first time faced with a guest statute defense where the only contacts with Minnesota were the occurrence of the injury and the plaintiff's hospitalization within the state.[16] Although the Minnesota court had often said that it believed the Minnesota common law to be preferable to guest statutes,[17] in previous cases it had

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guidelines to establish some predictability in using the *Babcock v. Jackson* approach.

8. Neumeier v. Kuehner, 31 N.Y.2d 121, 335 N.Y.S.2d 64 (1972).

9. 273 Minn. 419, 142 N.W.2d 66 (1966).

10. [W]e will weigh the interests of the domiciliary state, whether Minnesota or otherwise, to the extent it is constitutionally permissible, against any peculiar concern the state of the tort or the forum state may have. Such an approach will reflect all of the factors relevant to the issues rather than blindly defer to a state which may have experienced only a trivial and transitory brush with the parties to the litigation. 273 Minn. at 426, 142 N.W.2d at 70-71 (footnote omitted).

11. 273 Minn. 441, 141 N.W.2d 526 (1966).

12. The car involved was registered, insured, and garaged in Minnesota.

13. Schneider v. Nichols, 280 Minn. 139, 158 N.W.2d 254 (1968).

14. Allen v. Gannaway, 294 Minn. 1, 199 N.W.2d 424 (1972); Bolgrean v. Stich, 293 Minn. 8, 196 N.W.2d 442 (1972).

15. — Minn. —, 203 N.W.2d 408 (1973).

16. Milkovich was hospitalized in Duluth, Minnesota, for over a month, but all hospital bills had been paid prior to the court's consideration of the case.

17. The court noted in Schneider v. Nichols, 280 Minn. 139, 158 N.W.2d 254 (1968), that it found Minnesota law (requiring only that ordinary negligence be proven) to be better, although it declined to apply the North Dakota guest statute because of substantial Minnesota

examined the contacts with the states involved in order to find the "center of gravity" of the controversy.[18] The law of the "center of gravity" state was then used. In *Milkovich*, however, the court clearly adopted the "better law" test and concluded that where it faced a choice of applying a guest statute or Minnesota common law, it would further its own "governmental interests" by applying its own "better law."[19] This decision reflects a break with both previous Minnesota case law and the direction of choice-of-law decisions across the country. In *Milkovich*, the Minnesota court appears to be moving away from the "significant contacts" doctrine and signaling a return—by the new route of application of forum law—to the rigidity characteristic of the vested rights theory of lex loci.

However, the *Milkovich* court stated that it based its decision on a rejection of the lex loci doctrine and on an acceptance of a "methodology of analysis."[20] This analysis rested on five "choice-influencing considerations" enunciated by the Supreme Court of New Hampshire in *Clark v. Clark*.[21] The principles used by the New Hampshire Court were (1) predictability of results, (2) maintenance of interstate and international order, (3) simplification of the judicial task, (4) advancement of the forum's governmental interests, and (5) application of the better rule of law. Although the Minnesota court expressly adopted these five considerations as general guidelines, it dismissed predictability of results as being irrelevant to tort actions. It also dismissed simplification of the judicial task since the court could as easily apply either the Minnesota or the Ontario rule. The court then stated that international and interstate relations are "maintained without harm where, as here, the forum state has a substantial connection with the facts and issues involved."[22] In

connections in that case. In Bolgrean v. Stich, 293 Minn. 8, 196 N.W.2d 442 (1972), the court again refused to apply the North Dakota guest statute and added: "The fact that we believe Minnesota has the better law reinforces our decision." 293 Minn. at 10, 196 N.W.2d at 444.

18. Bolgrean v. Stich, 293 Minn. 8, 196 N.W.2d 442 (1972); Balts v. Balts, 273 Minn. 419, 142 N.W.2d 66 (1966). The "center of gravity" and "significant contacts" tests are different descriptions of the same process.

19. 203 N.W.2d at 417. Thus what merely "reinforced" the decision in Bolgrean v. Stich, 293 Minn. 8, 196 N.W.2d 442 (1972), has become the basis for the Minnesota court's new conflicts approach.

20. *Id.* at 412.

21. 107 N.H. 351, 222 A.2d 205 (1966). These five considerations were first proposed by Professor Robert Leflar in *Choice Influencing Considerations in Conflicts Law*, 41 N.Y.U. L. REV. 267, 279 (1966).

22. 203 N.W.2d at 417.

the court's view, a substantial connection was present because the accident occurred in Minnesota and the plaintiff incurred hospital expenses in Minnesota.[23]

The fourth and fifth considerations, however, were decisive. The court held that its main "governmental interest" was that of a "justice administering state," and thus it could not decide cases under rules which were "inconsistent with [its] own concepts of fairness and equity."[24] Expressing its distaste for guest statutes, the court found Minnesota law to be the "better law" and thus concluded that the analysis it employed required application of Minnesota law.

The analysis followed by the Minnesota court leads almost invariably to the application of forum law, although it is far from clear that such an outcome was the intention of the New Hampshire court when it set out the five considerations in *Clark v. Clark*.[25] In *Clark*, the New Hampshire court did apply forum law, but the forum was the state of residence of both plaintiff and defendant. In discussing the five "choice-influencing considerations" it pointed out several factors seemingly overlooked by the Minnesota court.

First, the New Hampshire court agreed with the Minnesota court that predictability of results has little relationship to automobile accident cases, but it added the caveat "except for the evils of forum shopping."[26] One of the traditional purposes of conflict-of-laws rules has been to avoid this evil—to establish minimum guidelines for interjurisdictional disputes to prevent the plaintiff from being able to shop for the jurisdiction most likely to award him damages. The Minnesota court ignored this factor in its consideration, for it's new methodology might well be labeled either as "forum law applies" or, more simply, "plaintiff wins." In the instant case it is very likely that the Minnesota suit was the result of such forum shopping. Minnesota law is more favorable to the plaintiff than is Ontario law. Moreover, the fact that the initiation of this suit followed the earlier filing of a suit in Ontario that was voluntarily dismissed by the plaintiff suggests that the plaintiff recalculated her chances for recovery and then chose Minnesota.

Second, the discussion in *Clark* of the consideration of maintenance of reasonable orderliness in interstate and international

23. *Id.*
24. *Id.*
25. 107 N.H. 351, 222 A.2d 205 (1966).
26. *Id.* at 354, 208.

relations indicated that real and significant contacts would be required before the forum could apply its own law. Writing for the New Hampshire court, Judge Kenison stated that "any choice of law that would unduly favor one state, the forum perhaps . . . would be questionable." A court should ". . . apply the law of no state which does not have substantial connection with the total facts and with the particular issue being litigated."[27]

The Minnesota court found that the occurrence of the accident and the hospitalization of the plaintiff in Minnesota gave the state significant contacts with the case. However, the fact that all Minnesota bills had been paid meant that there was in fact nothing in this particular case to involve questions about Minnesota medical creditors. The court stated, however, that a view of only the facts of this particular case and a conclusion that the Minnesota hospitalization was irrelevant since all bills had been paid "might offer even minor incentives to 'hospital shop' or . . . create litigation-directed pressures on the payment of debts to medical facilities."[28]

The court then concluded that the likelihood of medical costs being incurred constituted a governmental interest in the case. This hypothetical interest leads invariably to "significant contacts" whenever an accident occurs within the state's borders, and the court's methodology results in the application of Minnesota law whenever Minnesota has such a significant interest. Thus, while the court in *Milkovich* rejects the doctrine of lex loci—that the law of the place of injury governs—its analysis would reach the same result as invariably as the rejected rule. Moreover, the hypothetical Minnesota interest created by the court's desire to avoid hospital shopping or litigation-directed pressures on payment of medical creditors ignores (1) the improbability of an injured accident victim's deciding which hospital he will enter on the basis of applicable law, (2) the widespread existence of first-party medical payments coverage in automobile liability insurance, and (3) the existence of procedures that allow Minnesota hospitals to receive medical debt funds from the home county of an injured non-resident.[29] Neverthe-

27. *Id.*

28. 203 N.W.2d at 417.

29. These procedures allow Minnesota medical creditors to be paid by out-of-state county welfare funds. The Minnesota court appears to be concerned only about the payment of the creditors: if the non-resident had sufficient funds to pay, payment would come from him; if he were without funds and eligible for medical public aid (*i.e.*, Medicaid) from his home county, as determined by the state of his residence, those funds would be available to Minnesota hospitals.

less, the court employed this hypothetical interest as a hook on which to hang Minnesota's interest in the outcome of the case and to justify its use of Minnesota law.

That this decision reflects a departure from earlier case law is illustrated by *Balts v. Balts*[30] in which the court noted the principal reason for the change from the vested rights approach to the significant contacts approach:

> In this day of jet planes and high speed transportation on interstate highways, a traveler's contact with the state of the tort is ordinarily quite casual compared to the substantial and enduring interest of the domiciliary state.[31]

Thus the court in *Milkovich* assumed its conclusion when it found that maintenance of interstate and international relations was not relevant to the decision because Minnesota had significant contacts with the events. The *Milkovich* court emphasized the word "contact" and nearly ignored the word "significant." The court failed to analyze the nature of these contacts and to compare them with those of Ontario and assumed that Ontario would not be affronted by application of Minnesota law to its residents.

The decision in *Milkovich* ultimately rests on a finding that Minnesota's "governmental interests" as a "justice administering state" will be served by applying rules consistent with its own ideas of fairness and equity,[32] and that applying the "better law" of Minnesota is thus in its governmental interest. This merging of the considerations of governmental interest and better law takes place absent any real analysis of what governmental interests may be present or how they may be served by applying Minnesota law and ignores the legitimate interest of other governmental units in the decision.[33] The only clear governmental interest may be convenience for litigation, which arguably is not a governmental interest of the forum state. The court's concern

30. 273 Minn. 419, 142 N.W.2d 66 (1966).

31. *Id.* at 70.

32. The standard for "our own concept of fairness and equity" (203 N.W.2d at 417) is not articulated. Whether this means Minnesota legislative policy or the justices' personal views is not clear.

33. The original author of these five considerations, Robert A. Leflar, in *Conflicts Law: More Choice-Influencing Considerations*, 54 CAL. L. REV. 1584 (1966), pointed out that the consideration of governmental interest is not a necessary ingredient in each case, but something the forum should look to in order to determine if it in fact has such an interest. Leflar stated that "this refers to legitimate concerns, not just to the local occurrence of some facts, or to the local existence of some rule of law that could be constitutionally applied to the facts." 54 CAL. L. REV. at 1586.

with Minnesota as a "justice administering state" might imply that the plaintiff would receive less than justice in Ontario. Thus, the merger of governmental interest and better law obliterates governmental interests as a factor and destroys any hope of recognizing competing interests of other jurisdictions.

Moreover, such a merger amounts to a return to a broadened vested rights rule in torts conflicts: if either party is domiciled in Minnesota and the accident occurs elsewhere, Minnesota has significant contacts and will apply its own better law to further its governmental interests; and if the accident occurs in Minnesota, that fact gives Minnesota significant contacts to apply its own better law to further its governmental interest. Under the *Milkovich* doctrine, only if Minnesota were a truly neutral forum state, having no connection with the events other than as forum, could Minnesota possibly apply any law but that of Minnesota.[34] Conflicts rules are simply not made for this infrequent occurrence. The doctrine of lex loci did not lead as inexorably to the application of a single state's law.

Even if the Minnesota court had heeded all of Judge Kenison's warnings accompanying his five considerations, and even if it had more thoroughly analyzed the role of governmental interests and "better law," serious questions might nevertheless be raised about the advisability of the modes of analysis employed. The most serious concern is centered around the so-called "better law" approach. One conflicts scholar, Russell Weintraub,[35] has suggested that the better law consideration be encouraged, but only if two conditions have clearly been met. First, there must be a true conflict of policies underlying the law of each state; and each state's domestic law must be sig-

34. In Conklin v. Horner, 38 Wis. 2d 468, 157 N.W.2d 579 (1968), the Wisconsin court applied Wisconsin law in a fact situation similar to *Milkovich*. In *Conklin* the Wisconsin court analyzed its interest as the *forum* state in such a way that it appeared that its connection *as forum* gave it sufficient contacts to apply its own law. The Minnesota court in *Milkovich* relied heavily on *Conklin v. Horner*, although it did not adopt the language concerning its role as purely forum. The Wisconsin court's approach in *Conklin v. Horner* could raise due process questions in application of forum law where no other connection with the state exists. The Supreme Court of the United States has indicated that if the connection with the forum state were too slight or casual, the application of local law would not be consistent with due process. *See* Clay v. Sun Insurance Office, Ltd., 377 U.S. 179, 181-182 (1964); Hartford Accident & Indemnity Company v. Delta & Pine Land Company, 292 U.S. 143 (1934); Home Insurance Company v. Dick, 281 U.S. 397 (1930).

35. *See* R. WEINTRAUB, COMMENTARY ON THE CONFLICT OF LAWS 244-46 (1971).

nificantly and legitimately advanced by application of its own law.[36] In a discussion of this requirement, Weintraub analyzed the Wisconsin case of *Conklin v. Horner*,[37] a case consistent with *Milkovich* and relied upon by the Minnesota court. Weintraub found Wisconsin's interest in application of its own law to be "officious and hypothetical."[38] Chief Justice Hallow's dissent in *Conklin v. Horner* observed that the method adopted by the court is essentially a mechanical application of the law of the forum.[39]

Second, Weintraub argued that the better law should be selected by objective standards, and states should not declare another state's law to be anachronistic unless it can be shown that many jurisdictions have abandoned the rule in question over a period of time in favor of the "better law" of the forum.[40] As a number of commentaries have noted, the fact that 27 states and several foreign jurisdictions have some form of guest statute makes it highly questionable whether guest statutes can be considered anachronistic.[41] In addition, while the *Milkovich* court indicated why it believed a guest statute not to be good law, it never affirmatively showed why negligence law is better. If a court intends to apply a better law standard, it should be able to show affirmatively why the law applied is in fact the better law.

The most basic question raised about the better law doctrine is simply its relevance to conflicts decisions at all. One conflicts scholar[42] views the better law approach as an escape, a means by which courts can avoid coming to grips with the difficulties of finding reasonable and workable solutions to conflicts problems. The better law doctrine was expressly rejected by the New York Court of Appeals in its most recent conflicts decision, *Neumeier v. Kuehner*:[43]

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36. *Id.*
37. 38 Wis. 2d 468, 157 N.W.2d 579 (1968).
38. WEINTRAUB, *supra* note 35, at 246.
39. 38 Wis. 2d 491, 157 N.W.2d 590; *see also* Note, *Wisconsin's Torts Conflicts—Genesis of a Rule*, 1972 WIS. L. REV. 924.
40. WEINTRAUB, *supra* note 35.
41. *Id.* at 206. 25 states now have guest statutes, and Massachusetts and Georgia have imposed the standard judicially. However, Vermont repealed its guest statute in 1970. Vt. Laws 1970, ch. 194. Furthermore, the California Supreme Court recently declared the California guest statute to be unconstitutional in part. Brown v. Merlo, 8 Cal. 3d 855, 506 P.2d 212, 106 Cal. Rptr. 388 (1973).
42. Cavers, *Conflict of Laws Round Table, the Value of Principled Preferences*, 49 TEXAS L. REV. 211 (1971).
43. 31 N.Y.2d 121, 286 N.E.2d 454, 335 N.Y.S.2d 64 (1972).

> While New York may be a proper forum for actions involving its own domiciliaries, regardless of where the accident happened, it does not follow that we should apply New York law simply because some may think it is a better rule, where doing so does not advance any New York State interest, nor the interest of any New York State domiciliary.[44]

The use of the better law approach also raises grave jurisprudential questions such as whether courts should perform the function of deciding which law embodies the better social policy. Once a state or provincial legislature has chosen a social policy for its residents, it is hardly the court's role in a conflicts case to then judge whether that state's social policy is better than another's.

While certain courts and scholars would criticize the reasoning in *Milkovich* but justify the result on other grounds,[45] the better analysis would reject the decision and apply Ontario law. The clearest expression of this view comes from the New York Court of Appeals in *Neumeier v. Kuehner*.[46] Setting forth guidelines for the application of *Babcock v. Jackson*'s "significant contacts" approach, Chief Judge Fuld's first guideline clearly covers the *Milkovich* facts:

> 1) When the guest passenger and the host driver are domiciled in the same state, and the car is there registered, the law of that state should control or determine the standard of care which the host owes to his guest.[47]

This guideline is justified by the basic thrust of the *Babcock* approach, which is to apply the law of the state which has the most significant contacts with the events. The guideline identifies those contacts which the court considers significant because they are related to the policies of the state in formulating its laws.

The significant contacts or "center of gravity" approach is close to the "functional analysis"[48] in which the forum state attempts to ascertain if the apparent conflict is a true or a spurious one. If the policies of only one state would be significantly

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44. *Id.* at 126-27, at 457, at 68.

45. *See, e.g.*, Rosenberg & Trautman, *Two Views on Kell v. Henderson—An Opinion for the New York Court of Appeals*, 67 COLUM. L. REV. 459 (1967).

46. 31 N.Y.2d 121, 286 N.E.2d 454, 335 N.Y.S.2d 64 (1972).

47. *Id.* at 128, at 457, at 70. This decision was not considered by the Minnesota court, and the court in fact predicted that the New York Court of Appeals would adopt *Kell v. Henderson*, which is in fact reversed by this guideline. *See* note 7 *supra*.

48. *See* WEINTRAUB, *supra* note 35.

and legitimately advanced by application of its law, the conflict is spurious and the forum should apply the law of the state whose policies would be thus advanced. In the instant case the conflict is spurious, for only Ontario has policies which would be advanced by application of its guest statute,[49] and Minnesota would be officiously interfering to apply its own law where no policy of its own would be advanced.[50]

Similarly, application of the rules of RESTATEMENT SECOND, CONFLICT OF LAWS would result in the choice of Ontario law rather than Minnesota law in the instant case. The Restatement provides that:

> (1) The rights and liabilities of the parties with respect to an issue in tort are determined by the local law of the state which, as to that issue, has the most significant relationship to the occurrence and the parties under the principles stated in § 6.[51]

The rapid changes in torts conflict-of-laws in the past decade have led a number of courts to confusing and inconsistent decisions, some of which are only beginning to be clarified by further case law. The absence of rules and adoption of forms of analysis and methodology help to generate problems which will be settled only as the new approaches become more stable and widely accepted.

The Minnesota court in *Milkovich* had left behind at least

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49. *Survey of Canadian Legislation*, 1 U. TORONTO L.J. 358 (1936), indicates that a major consideration behind passage of the guest statute was to protect insurance companies from the fraud of insured motorists. Since Ontario motorists and insurers are involved in the instant case, the policy behind the legislation is clearly applicable. The Ontario guest statute was amended in 1966 to allow recovery for gross negligence rather than to bar recovery entirely. Highway Traffic Amendment Act, 1966, ch. 64, § 20(2) (Ont.).

50. With no Minnesota resident, insurance company, or medical creditor involved (*see* text accompanying note 29 *supra*), Minnesota has no interest other than as forum, which is insufficient under this analysis.

51. RESTATEMENT SECOND, CONFLICT OF LAWS § 145 (1967). Section 6 states:

> Choice of Law Principles:
> (1) A court, subject to constitutional restrictions, will follow a statutory directive of its own state on choice of law.
> (2) When there is no such directive, the factors relevant to the choice of the applicable law include
> (a) the needs of the interstate and international systems,
> (b) the relevant policies of the forum,
> (c) the relevant policies of other interested states and the relative interests of those states in the determination of the particular issue,
> (d) the protection of justified expectations,
> (e) the basic policies underlying the particular field of law,
> (f) certainty, predictability and uniformity of results, and
> (g) ease in the determination and application of the law to be applied.

temporarily its "center of gravity" and "significant contacts" approach for a methodology which in fact results in as much oversimplification as the doctrine of lex loci. While *Milkovich* creates predictability, it achieves this end only by sacrificing the principle of accommodating the most interested jurisdiction. As long as the entire area of torts conflicts is still in flux, it is possible that the court will redefine its position and move back to the "significant contacts" approach of *Babcock v. Jackson*.[52] Until such a time, Minnesota courts, in obedience to *Milkovich*, presumably will follow the simplistic rule of applying Minnesota law in all cases.

52. 12 N.Y.2d 473, 240 N.Y.S.2d 743, 191 N.E.2d 279 (1963).