**INTERNATIONAL CIVIL LITIGATION**

**Professor Mike Ramsey**

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**ICL Hypothetical – Version #8**

(1) You are advised by Mr. McKenna’s Chinese counsel that the case against Mr. McKenna in Chinese court may proceed to judgment fairly quickly, possibly resulting in a declaratory judgment that he does not own any shares of stock in any of the TIMCO entities. (Recall from an earlier version of the hypothetical that the TIMCO entities filed this suit in China after McKenna filed suit in California; that the California court denied TIMCO’s motion to stay the California proceeding under *lis alibi pendens*; and that the California court denied your motion for an antisuit injunction to prevent the Chinese case from going forward.) You are now concerned that if the TIMCO entities obtain a judgment in China, they will seek recognition and enforcement of that judgment in California or possibly elsewhere in the United States. Consider how much of a concern this should be.

 (2) On behalf of Mr. McKenna, you serve wide-ranging discovery requests on TIMCO Investments relating to its banking and shareholder records in the Cayman Islands. TIMCO moves for a protective order on the ground that disclosure of this information would violate Cayman law, but the district judge in California denies the motion and orders TIMCO to comply with the requests. Shortly afterward, an attorney representing TIMCO approaches you with a settlement offer. While discussing the offer, he observes: “You’re better off with a settlement, because you aren’t going to be able to enforce any judgment you get anyway. We don’t have any assets in the United States.” Assume China and the Cayman Islands have procedures for enforcing foreign judgments that are similar to the United States. Consider how much this should be a factor in the settlement negotiations.