**INTERNATIONAL CIVIL LITIGATION**

**Professor Mike Ramsey**

**Fall 2024**

**ICL Hypothetical – Version #4**

Assume all facts given in the prior versions of the hypothetical, plus the following:

1. Zach McKenna filed suit in federal district court in California against the TIMCO entities, alleging fraud and breach of contract. Defendant TIMCO Investments, Inc. entered a limited appearance, contesting personal jurisdiction and claiming foreign sovereign immunity. The other defendants did not appear.

On defendant’s motion to dismiss, the district court ruled: (i) the court has specific personal jurisdiction over TIMCO Investments on the ground that all of the TIMCO enterprises should be treated as a single entity for purposes of personal jurisdiction and the suit arose from TIMCO’s interactions with McKenna in California; (ii) TIMCO Investments lacks immunity under the FSIA because it is a legally separate entity from the Chinese government and is incorporated in a third country under FSIA 1603(b)(3); and (iii) although this was not contested by the defendant, McKenna’s service of process by mail on TIMCO Investments in the Cayman Islands pursuant to Article 10 of the Hague Service Convention and Rule 4(f)(2)(C)(ii) was proper.

As to the other defendants, the court stayed proceedings pending service of process, which remains ongoing.

1. TIMCO Investments strongly objected to the court’s personal jurisdiction ruling and vowed to appeal, but the court refused to certify an interlocutory appeal, so the appeal will await final judgment. TIMCO Investments elected not to appeal the court’s denial of sovereign immunity (even though this would be an allowable interlocutory appeal). TIMCO Investments indicated instead that it would file a further motion to dismiss in the near future.

As McKenna’s attorney, you anticipate that the defendant’s new motion to dismiss will focus on *forum non conveniens*. Consider what you expect TIMCO to argue and how you will respond.