**INTERNATIONAL CIVIL LITIGATION**

**Professor Mike Ramsey**

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**ICL Hypothetical – Version #7**

Assume all of the facts described in prior hypotheticals, plus the following: as Zach McKenna’s attorney in McKenna’s suit against the TIMCO entities in California court, you’ve survived all of the defendant’s attempts to get the suit dismissed, and are ready to launch the discovery necessary to prove your case on the merits. This stage of the case presents the following difficulties:

(a) You would like to obtain corporate records relating to McKenna’s employment with TIMCO. These records are located in China, in the control of a subsidiary of TIMCO Investments. China does not have any laws directly relating to disclosure of the records, but China regards discovery in China, other than through its own courts, as an affront to its sovereignty.

(b) You would like to obtain the financial records of TIMCO Investments, in particular records relating to its ownership during the time that McKenna was supposedly issued his stock and that his ownership was denied. These records are located in the Cayman Islands. Cayman law prohibits their disclosure.

(c) Mr. Shen, a former TIMCO accountant who lives in China, is willing to testify that he recorded the issuance of stock to McKenna, but he is not willing (and possibly not able) to travel to the United States.

(d) Mr. Chang, TIMCO’s former Chief Financial Officer, also lives in China and, according to the defense, denies that any stock was ever promised or issued to McKenna. You would like to ask him some questions.

Consider how you would proceed with respect to each of these issues. What additional information might you need to know?