



ERICSA

1963-2023

A GEM 60 YEARS
IN THE MAKING

Savannah

60TH ANNUAL TRAINING CONFERENCE & EXPOSITION

MONDAY, MAY 22 - FRIDAY, MAY 26, 2023

Presenters



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The UIFSA Principle of Registration

How do registrations serve the principle of one order per family? How does the legal concept of Continuing Exclusive Jurisdiction (CEJ) fit in? What documents are needed to support a registration of an order domestically and internationally? What legal defenses can be raised to challenge a registration of a domestic order of support or the recognition of a foreign order of support and what is the respective time frame for doing so? What is the effect of a registration? And what happens when a registration is not pursued and a new order is issued by a new jurisdiction instead? How is the controlling order for that family determined and noticed to both jurisdictions? Please join us as our panel of experts answers these, and other questions.



What Does Registration Even Mean?



Brief History Lesson

The predecessors to UIFSA, URESA and RURES, did not have the formal registration process that we are accustomed to. When one State would enter a support order and then would request another State to enforce said order, it was common for the responding State to initiate a new proceeding to establish a “new” support order. Obviously, that created the problem of multiple orders running at the same time for varying amounts and for varying durations.

The Uniform Law Commission made the concept of registration a key component of UIFSA when drafted originally in 1992.



Why Would an Order be Registered?

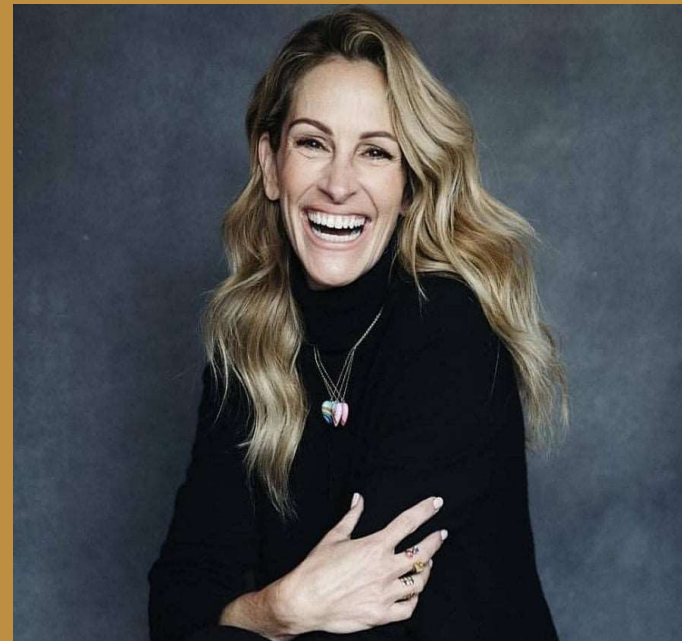
A support order can be registered for the purposes of either enforcement, modification, or both.



But does a support order have to be registered prior to enforcement?

Julia Roberts had three children with her ex-husband. He was ordered to pay her \$2,000.00 per month in current child support by a court in Los Angeles County, California. After the divorce Julia and the children move back to her hometown of Smyrna, GA. The ex moves to New York City. GA sends petition to NY to enforce the CA order.

Can NY enforce the order from GA without registering?



Section 507 of UIFSA allows for a responding State to utilize all administrative enforcement remedies without first registering the support order.



If the obligor contests enforcement, the Responding State must register the support order.



What are the Mechanics of Registration?



UIFSA Section 602 provides...

- A letter of transmittal
- Two copies, including one certified of order(s)
- A sworn statement on arrears
- Name of the obligor and identifying information
- Name and address of obligee

All will be sent to the State where the obligor is residing if the request is for registration for enforcement.

If the request is for registration for modification then it will be sent to the State that issued the support order so long as that State has Continuing, Exclusive Jurisdiction. If not, then the request will be sent to the State of the non-requesting party.





Dwayne “The Rock” Johnson had a child with his ex-wife. He was ordered to pay \$5,000.00 in current child support through a court in Florida. The Rock then moves to Atlanta, GA.

His ex-wife files pro se for enforcement of the support order in a GA court. Attached to her filing is a copy of the FL order. Dwayne files to dismiss the complaint on grounds that his ex did not comply with UIFSA.



What's the legal standard?

Ex parte Reynolds, 209 So. 3d 1122

Decided May 20, 2016, held:

Requiring one seeking to enforce a foreign judgment to be in substantial compliance, as opposed to strict compliance, with the registration requirements of the UIFSA is the better-reasoned position. Requiring strict compliance with § 30-3D-602(a) produces a harsh result, especially considering that the subject matter at issue in cases in which the UIFSA applies is child support. The "UIFSA was created to identify ways to improve the efficiency and effectiveness of interstate child support enforcement by addressing interstate cases in a uniform manner." Ala. Admin. Code (Dep't of Human Res.), Rule 660-3-10-.01. Requiring strict compliance with the registration statute does not further the purpose of the UIFSA.



What if the obligor moves between countries?



UIFSA Section 706 provides that the following is needed for recognition...

- Either the complete text of the support order or an abstract or an extract
- A record stating that the support order is enforceable in the issuing country
- If the respondent did not appear and was not represented in the proceedings, a record providing that notice and opportunity to be heard was given
- A record showing the amount of arrears
- A record showing a requirement for automatic adjustment of the amount of support, if any, and the information necessary to make the appropriate calculations
- A record showing the extent to which the applicant received free legal assistance



REGISTRATION STATION THE TICKET TO LITIGATION



* Greaney, Dan & Scott III, Swinton O., 1997, December 7. *Reality Bites*, Season 9 Episode 10. The Simpsons. Fox Broadcasting Co.



IS REGISTRATION NECESSARY?

A Split Approach

Registration Necessary

- Alabama - Williams v. Williams, 91 So. 3d 56 (Ala. Civ. App. 2012)
- New York - Auclair v. Bolderson, 6 A.D.3d 892, 775 N.Y.S.2d 121 (2004)
- Nebraska - Lamb v. Lamb, 14 Neb. App. 337, 707 N.W.2d 423 (2005)
- Wisconsin - Cepukenas v. Cepukenas, 221 Wis. 2d 166, 584 N.W.2d 227 (Ct. App. 1998)

Formal Registration Not Required

- Texas - Kendall v. Kendall, 340 S.W.3d 483 (Tex. App.—Houston [1st Dist.] 2011, no pet.)
- Washington –In re Marriage of Owen & Phillips, 126 Wash. App. 487, 108 P.3d 824 (2005)
- Mississippi - Nelson v. Halley, 827 So. 2d 42 (Miss. Ct. App. 2002)



REGISTRATION VS. RECOGNITION

Registration – UIFSA / Foreign Order

- UIFSA Section 605
- Notice
 - Original Model Rules: 20 Days
 - Texas moved to 30 days in 2021.
 - Tex. Fam. Code 159.605

Recognition – Hague Convention

- UIFSA Section 707
- Notice
 - Contest of a Convention Order must be filed not later than 30 days after notice
 - Contest must be filed not later than 60 days after notice if the party does not live in the United States



DEFENSES TO DOMESTIC REGISTRATION

Issuing tribunal
lacked personal
jurisdiction

Order was obtained
by fraud

Order has been
vacated, suspended,
or modified

Issuing tribunal has
stayed the order
pending appeal

Defense under the
law of this state to
the remedy sought

Full or partial
payment

Statute of limitation
precludes
enforcement

Alleged controlling
order is not the
controlling order

UIFSA Section 607



CONTEST OF REGISTERED CONVENTION ORDER

Incompatible with Public Policy

Lacked Personal Jurisdiction

Not Enforceable in the Issuing Country

Obtained by Fraud (Procedural)

Lacks Authenticity or Integrity

Identical Proceeding Pending in this State Filed First

Order is Incompatible with a More Recent Support Order

Full / Partial Payment

Respondent Did Not Receive Notice / Was Not Entitled to Notice

Order was an Improper Modification

UIFSA Section 707



CHOICE OF LAW

Issuing State Governs:

- (1) the nature, extent, amount, and duration of current payments under a registered support order;
- (2) the computation and payment of arrearages and accrual of interest on the arrearages under the support order; and
- (3) the existence and satisfaction of other obligations under the support order.

Responding State Governs:

- Procedures and remedies to enforce current support and collect arrears and interest

UIFSA Section 604



THE ART OF A JURISDICTIONAL CHALLENGE

Forum for a Challenge

Personal Jurisdiction

- *Kulko v. Superior Court of California In & For City & Cnty. of San Francisco*, 436 U.S. 84, 98 S. Ct. 1690, 56 L. Ed. 2d 132 (1978)

Subject Matter Jurisdiction

Reservation by the United States to Article 20 of the Hague Convention

- 1(c) – Creditor Based Jurisdiction
- 1(e) – Jurisdiction by Agreement of the Parties
- 1(f) – Jurisdiction based on Personal Status or Parental Responsibility



Foreign Reciprocating and State Level Agreements



Tired of being a celebrity, Ryan Seacrest moves to the Republic of the Congo. He falls in love and was married through a religious ceremony. The couple had one child while living together in the Congo, but the marriage soon breaks down. After a contentious divorce that includes provisions for child support, Ryan moves back to New York for the limelight. His ex would like to enforce the outstanding arrears from the Congo divorce and increase the child support obligation.



- (A) Is the Republic of the Congo a signatory to the Hague?
- (B) Does the United States have a reciprocal agreement for child support with the Republic of the Congo?
- (C) Does New York have a state level reciprocal agreement for child support with the Republic of the Congo?
- (D) If none of these, what happens next?



COMITY

Definition:

- Friendly social atmosphere or social harmony
- A loose widespread community based on common social institutions
- The informal and voluntary recognition by court of one jurisdiction of the law and judicial decisions of another

“Comity.” *Meriam-Webster.com Dictionary*,
<https://www.merriam-webster.com/dictionary/comity>.



Comity Considerations

Personal Jurisdiction

- New York declined to enforce an Israeli order because the Israeli court did not obtain jurisdiction over the wife in the divorce. Aranoff v. Aranoff, 226 A.D.2d 657 (2d Dept., 1996)

Registrations: the Definition of “State” or “Foreign Country”

- Where there isn't sufficient evidence that another foreign jurisdiction has enacted a law or established procedures for the issuance and enforcement of child support orders which are substantially similar to UIFSA, Courts may decline to register the foreign order since they would not fall under the definition of “state” or “foreign country.” UIFSA, Section 102 (5) (iii); Country of Luxembourg ex rel. Ribiero v. Canderas, 338 N.J. Super. 192 (Chancery Div.-Fam. Part, Union Cty., 2000); Haker-Volkening v. Haker, 143 N.C. App. 688 (Ct. of Appeals, 2001); Cresenzi v. Cresenzi, 2004 Conn. Super. LEXIS 3172 (Sup. Ct., Tolland, 2004)
- However, even where the Court declines to register the order under UIFSA, it may still grant comity to enforce the order. See, Haker-Volkening, supra; Rains v. DSHS, 98 Win. App. 127 (Ct. of Appeals of Wash., Div. 3, 1999)

Comity is Discretionary

- Comity is generally granted by the courts, and the burden of proof is on the party asserting that comity should not be granted to show illegitimacy of the order. In re Marriage of Ten, 2019 Wash. App. LEXIS 3058 (Ct. of Appeals of Wash., Div. 1, 2019); S.B. v. W.A., 38 Misc.3d 780 (Westchester Cty., 2012)



SCENARIOS



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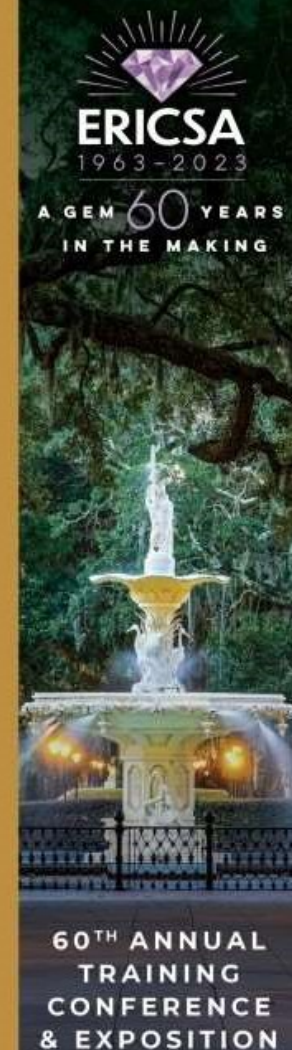
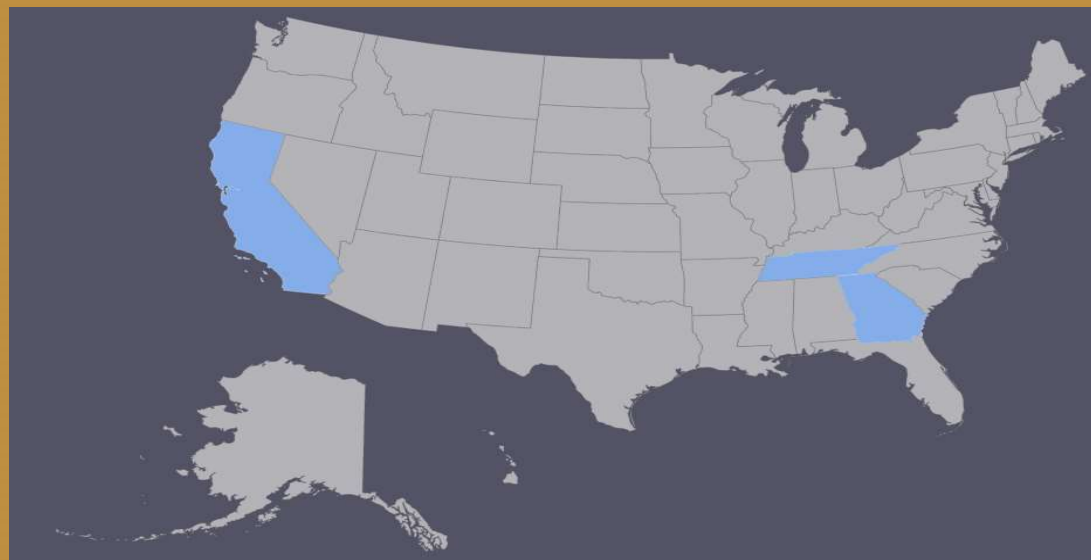
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Atlanta resident, Usher, was married and had three children. Soon after the birth of his third child, he and his wife entered into a dissolution of marriage. The children would be raised in Atlanta by Usher. His ex-wife was ordered to pay \$900.00 per month for the support of the children. She then moved to California and immediately stopped making payments. GA. sent a petition to CA. to register and enforce the GA. order. CA. did so.

Usher then moved with the children to his birth State, Tennessee. He had stopped recording music and wanted to have the order increased. TN. then sent a petition to CA. to register and modify the GA. order.

What happens next? Does CA. need to register the GA. order for modification purposes?



Savannah residents, Jennifer Lopez and Ben Affleck decide after a year of marriage to adopt a child. Wedded bliss doesn't last, and Ben decides he wants a divorce to go back to his ex-wife, Jennifer Garner. Affleck and Lopez obtain a divorce and enter a shared parenting agreement.

Ben moves to Massachusetts and pursues rekindling the relationship with his first ex-wife. He is completely caught off guard when he receives a complaint to register and enforce a Georgia support order.

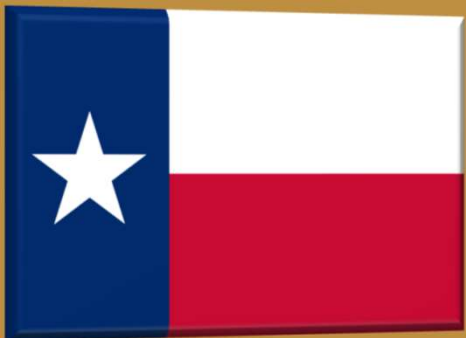
Ben tells his attorney that the shared parenting plan he signed off on did not contain a support provision.

What should happen next?





Our not so happy family has a default divorce decree from Maryland addressing the dissolution of marriage, custody, visitation, and child support. Mom resided in Colorado at the time of the divorce. Now in Texas, Dad and Kid are seeking enforcement of the support order and a modification. Discuss the role of registration.

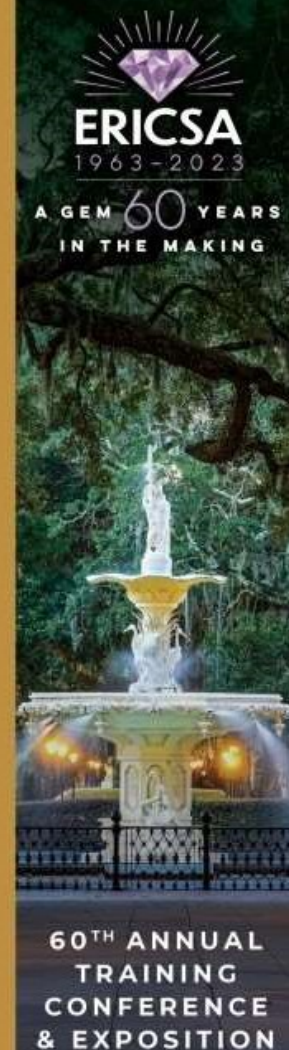


Where does the enforcement and modification have to occur?



What if Mom contests the default decree?

What if Dad's modification wants to address custody and visitation?



Thank You!

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