INTERSTATE CASE LAW UPDATE

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I. JURISDICTION TO ESTABLISH PATERNITY AND SUPPORT

A. Personal Jurisdiction over Non-Resident Respondent -

1. A Maine trial court properly dismissed a man's petition to establish parental rights and responsibilities, where neither the mother nor child had ever stepped foot in Maine or had any other connection to that state, the Maine Supreme Court held. Although primarily a custody determination under the UCCJEA, the man argued that UIFSA granted the court subject matter jurisdiction to hear the case. Rejecting that argument, the high court opined that UIFSA "does not govern child custody and contact and does not provide a basis for jurisdiction because the child was not conceived in Maine, the mother was not served in Maine and did not consent to jurisdiction in Maine, and neither the mother nor the child ever resided in Maine. *See* 19-A M.R.S. § 2961(1)." *Seekins v. Hamm*, — A.3d — (Me. No. Wal-15-153, 12/3/15).

2. A Florida trial court erred in refusing to dismiss a custodial mother's petition to establish child support against a man who resided in Sweden, where the mother failed to allege any facts showing that Florida could properly exercise personal jurisdiction over the alleged father, the Florida Court of Appeals decided. Moreover, the appellate court said, "while the mother did generally refer to the Hague Convention in her petition, she failed to show that its provisions would override the applicable statutory provisions or due process considerations." *Gustafasson v. Levine*, — So.3d — (Fla.App., No. 4D15–1698, 12/2/15).

3. A Maryland trial court erred in dismissing for lack of personal jurisdiction a Mother's amended petition to establish paternity and child support following her initial petition for custody, the Maryland Special Court of Appeals ruled. By requesting DNA testing and initiating discovery related to paternity and child support, the putative father both waived immunity for unrelated lawsuits under the UCCJEA and established the trial court's long-arm jurisdiction over him under UIFSA. *Friedetzky v. Hsia*, 117 A. 3d 660 (Md.Ct.App. 7/6/15).

   a. Reversing, the appellate court acknowledged that the UCCJEA (F.L. § 9.5-108(a)),[1] provides immunity from personal jurisdiction when participating in a custody

[1]F.L. § 9.5-108(a) states: "A party to a child custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child custody determination, is not subject to personal jurisdiction in this State for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding." The court also observed that "UIFSA has a similar, inverse provision, as it is directed specifically to the plaintiff who may file a support or custody petition in the respondent's home state without submitting to the jurisdiction of that state. As adopted in Maryland, F.L. § 10-326(a) provides that "[p]articipation by a plaintiff in a proceeding under this subtitle before a responding tribunal ... does not confer personal jurisdiction over the plaintiff in another proceeding."

proceeding. In other words, the UCCJEA provides that a nonresident does not submit to personal jurisdiction for other matters solely by participating in the custody action. However, the court said, because of the man's actions in requesting DNA testing and proffering discovery that exceeded the scope of custody and visitation, he had waived the UCCJEA's immunity provision.

b. The appellate court went on to say that the man's actions also established Maryland's long-arm jurisdiction over him under UIFSA. By requesting affirmative relief in the trial court, the man consented to Maryland's exercise of Maryland's personal jurisdiction over him. *See* F.L. § 10-304 (personal jurisdiction over a nonresident defendant may be established where, *inter alia*, "the individual submits to the jurisdiction of this State by consent in a record, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction.")

4. A Kansas trial court did not abuse its discretion in finding that it had personal jurisdiction to establish a child support order over a nonresident father, where the father's pervasive and ongoing abuse toward the mother and children caused her to reside in Kansas, the Kansas Court of Appeals decided. The appellate court observed that Kansas' version of UIFSA allows a tribunal to exercise long-arm jurisdiction over a non-resident when "the child resides in this state as a result of the acts or directives of the individual." K.S.A. 23-36,201(e). Finding substantial evidence to support the trial court's conclusion, the appellate court affirmed. *Stewart v. Stewart*, (Kan.Ct.App., No. 110058, 1/16/15) (memorandum).

B. Reserved Order - An Illinois trial court that "reserved" child support did not err in later entering an order even though both parties and the child had by then relocated to Colorado, the Illinois Court of Appeals ruled. The appellate court opined that the trial court's reserved order, which stated that Father "will owe a duty of support" was itself a child support order allowing it to continue exercising jurisdiction to establish the exact amount at a later time. This was true even though by the time the trial court had established the amount, everyone had relocated to Colorado, especially since the Colorado court had declined to exercise jurisdiction over the child support issue. *Tso v. Murray*, (Ill.Ct.App., No. 2–14–0258, 5/22/15) (unpublished).

C. Standing -

1. A Florida trial court erred in dismissing a man's UIFSA petition to establish a child support order against the child's mother merely because his paternity had not yet been established and he did not have custody of the child, the Florida Court of Appeals held. The appellate court held that although there was no formal order determining paternity, the mother admitted that the petitioner was the child's biological father. In addition, the record showed that his paternity has been confirmed by DNA testing. Moreover, the

appellate court said, UIFSA does not require a formal order of paternity in order to seek support. Rather, a person with physical custody may initiate proceedings seeking child support even if the respondent has legal custody. "This ability arises from the fact that child support is a right which belongs to the child. The fact that the parties may be engaged in a custody dispute is not a reason to deny a petition for support." *State Dept. of Revenue v. Pare*, 177 So.3d 663, 664 (Fla.Ct.App. 10/12/15).

2. A Pennsylvania trial court did not err in entering a child support order against a resident noncustodial father under UIFSA, even though the petitioner-mother, who resided in Texas, was not a U.S. citizen, the Superior Court of Pennsylvania ruled. In this case, Mother and Father were divorced in Pakistan. Their dissolution decree did not award support for their minor child. Thereafter, Mother moved to Texas and Father to Pennsylvania. Mother, via the Texas IV-D agency, forwarded to Pennsylvania her request to establish support. In appealing the trial court's order against him, Father argued: (1) Mother failed to show any basis for Texas' personal jurisdiction over him and thus the Pennsylvania order deprived him of due process; (2) Mother was not entitled to employ UIFSA to process her support request because she was not a U.S. citizen; (3) Mother failed to show that Texas was the child's home state; and (4) Mother did not comply with UIFSA's requirement to submit identifying information, *i.e.*, her residential address, in her transmittal. *Shaikh v. Syed* (Pa.Super., No. 342 EDA 2015, 8/5/15) (non-precedential decision).

   a. As to Father's first assignment of error, the appellate court noted that Texas was in no way attempting to exercise jurisdiction over Father. It was uncontested that Father resided in Pennsylvania. The Pennsylvania trial court therefore had no cause to evaluate Texas' jurisdiction over Father. Moreover, Mother consented to Pennsylvania's jurisdiction by entering her appearance there.

   b. As to Father's second assignment of error, the appellate court observed that Father cited no authority in support of his argument, and thus waived the matter for appeal. Waiver notwithstanding, nothing in UIFSA requires the movant for a support order to be a U.S. citizen. Moreover, the appellate court noted, "child support is the right of the child, not the parent." Turning to Father's third argument, the appellate court observed that UIFSA does not require a showing of the child's home state when processing a request to establish a support order.

   c. Finally, Mother's refusal to submit her residential address did not render her petition deficient. "Although Father is correct that section 7311 of the UIFSA generally requires a petitioner to include in the filing, *inter alia*, the petitioner's residential address, it permits the exclusion of this information under section 7312 if a court finds, in relevant part, 'that the health, safety or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information.' 23 Pa.C.S.A.

§§ 7311(a), 7312." In this case, Mother had attached to her petition documentation of Father's physical and sexual abuse against her and testified to it at trial.

3. A Texas trial court properly refused to enter a child support order under UIFSA, where the petitioner-mother had requested IV-D services through Texas while a resident of Guatemala, the Texas Court of Appeals held. Although the Texas Attorney General had standing to file the child support action on Mother's behalf by providing IV-D services, it was Mother, not the Attorney General, who was the petitioner in the support action. Because Mother did not reside in "another state" as defined by UIFSA, the Texas court did not err in dismissing Mother's petition for support. *In the Interest of M.I.M.* (Tex.Ct.App., No. 05-14-00662-CV, 7/22/15) (memorandum).

   a. The Texas Family Code, § 159.401(a), provides that "a responding tribunal of this state may issue a support order if: (1) the individual seeking the order resides *in another state*" as defined by UIFSA (emphasis in original by court). Guatemala, however, does not satisfy the statutory definition of a "state" under the the Texas Family Code, § 159.102(21)(B). There was "no evidence of Guatemala (i) being declared a foreign reciprocating country or political subdivision, (ii) establishing reciprocal arrangements for child support with Texas as provided by Section 159.308, or (iii) enacting a law or procedures for issuance and enforcement of support orders that are substantially similar to the procedures under the Texas Family Code."

   b. The Texas Attorney General conceded as much on appeal, but argued that limiting who can be a petitioner would be "unduly restrictive." The appellate court disagreed. It held that because Mother was not an individual who resided "*in another state*" as defined by UIFSA, the trial court did not err in dismissing the petition for support. It did err, however, in dismissing the cause *with prejudice*, and thus corrected that misstep.

II. JURISDICTION TO ENFORCE

A. Controlling Order Determination -

1. A Louisiana trial court did not err in refusing to set aside its order finding that a man no longer owed a child support arrearage because a reduced 1993 Louisiana URESA child support order "replaced and superceded" his higher 1987 California order, the Louisiana Court of Appeals decided. *State v. Hampton*, 181 So.3d 175 (La.Ct.App. 10/7/15).

a. Reduced to its bare essentials,[2] Riverside County California in 1987 issued a child support order requiring Father to pay $160/month in child support. Father thereafter moved to Louisiana and Mother remained in California. The California IV-D agency sent to Louisiana its request to register the California order for enforcement. In 1993, the Louisiana trial court held a hearing at which Father argued he could not afford the Riverside County order, especially given that Los Angeles County had issued another order for Father's two other children. The trial court offered to re-set the matter to give all interested parties — including Riverside County – more time to evaluate Father's child support order. The Louisiana state's attorney, however, offered to resolve all pending matters by reducing Father's child support order to $103/month without a hearing. Riverside County was afforded notice of the action and resulting judgment but neither appeared nor appealed the resulting order.

b. By 2008, eight years after the youngest child became emancipated, Father had satisfied all of his arrearage accruing under the reduced 1993 Louisiana order. By this time, Father's children were adults, ages 33 and 26. In 2010, Riverside County sent a direct income withholding order to Father's employer to collect the unpaid arrearage that accrued under the 1987 Riverside County order. Father sought to enjoin California, which the trial court ultimately granted. The Louisiana IV-D agency, which by 2011 had re-opened its case and represented California's interest, argued that Louisiana's 1993 order could did not nullify or supercede Riverside County's $160/month order. Accordingly, Father remained obligated to pay $74,871.06 in unpaid support and interest.

c. Affirming the trial court, the appellate court acknowledged that under URESA, multiple, inconsistent orders were commonplace. Ordinarily, another state's *de novo* child support order had no effect on the continuing validity of other orders that had been issued. But where the parties contemplated and the court's order intended to modify and supercede the other state's order, such would be given legal effect.

d. The question thus became whether, under the facts of the case, such circumstances existed. Finding that Louisiana's order superceded the Riverside County, California order, the appellate court stated, "[a]s we determined above, while Judge Boddie's judgment did not expressly say that his judgment superseded the California judgment, we have determined that his judgment superseded the California judgment because the assistant district attorney acted on behalf of California when it offered to reduce the support award, and the transcript of the hearing indicates that Judge Boddie intended that his judgment would replace the California support award." In

[2]Louisiana alleged eight assignments of error, all of which the appellate court rejected. Louisiana claimed, for example, that California had not in fact acquiesced to Louisiana's arrearage determinations.

addition, the appellate court noted, California was afforded notice of the hearing at which Father's child support order had been reduced and also the resulting judgment. It neither appeared nor filed an appeal. Consequently, California was bound by the finding that Father owed no further support or arrearage.

2. A trial court making a controlling order determination must have personal jurisdiction over the litigants, the California Court of Appeals held. *Vaile v. Porsboll*, (Cal.Ct.App., No. A140465, 5/22/15) (unpublished). (The parties also litigated in Nevada. *See Jurisdiction to Modify*, this outline.)

   a. "Precisely because the decision on such a motion will generally benefit one parent and adversely affect the other, the request must be made in a tribunal having personal jurisdiction over both parties. Section 4911, subdivision (c) requires a party seeking a controlling order determination to give 'notice of the request to each party whose rights may be affected by the determination.' Thus, a party who has not sought a controlling order determination and 'may be affected' by it is entitled to notice and an opportunity to be heard."

   b. The appellate court acknowledged that, at the time of its decision, California's 1996 version of UIFSA did not include the express language added in subsequent versions:

> Significantly, the 2002 version of section 4911 (not yet in effect) added language making it clear that such a determination may only be made if the court can acquire personal jurisdiction over both parties: "If a proceeding is brought under this chapter, and two or more child support orders have been issued by tribunals of this state or another state with regard to the same obligor and same child, a tribunal of this state *having personal jurisdiction over both the obligor and individual obligee* shall apply the following rules and by order shall determine which order controls," and then lists the relevant factors. (§ 4911, as amended 2002, operative date contingent, italics added.)
>
> We are confident the not-yet-operative 2002 amendment to section 4911 merely clarified a requirement already existing in the then-current version. This view is confirmed by the official comment to UIFSA section 207 (correlative to § 4911): "The 2001 amendment to Subsection (b) [of section 207] *clarifies* that a tribunal requested to sort out the multiple orders and determine which one will be prospectively controlling of future payments *must have personal jurisdiction* over the litigants in order to ensure that its decision is binding on all concerned. For UIFSA to function, one order must be denominated as the controlling order, and its issuing tribunal must be recognized as having continuing, exclusive jurisdiction. (Uniform Interstate Family Support Act Com. (2001), 29F, pt. 2, West's Ann. Fam. Code, § 4911,

> p. 61, italics added; see generally, *In re Marriage of Crosby & Grooms*, *supra*, 116 Cal.App.4th [201] at p. 206, fn. 3 [noting relevance of Commissioners' comments]; *Smith v. Superior Court* (1977) 68 Cal.App.3d 457, 463 [Commissioners' comments entitled to 'substantial weight in construing the statutes'].)"

B. Direct Income Withholding - Employer Standing to Object - A Georgia trial court properly dismissed an employer's action to stay an income withholding order it had received from a Louisiana child support agency because the employer was not an obligor as defined by UIFSA, the Georgia Court of Appeals ruled. Under UIFSA, "[a]n *obligor* may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in Georgia . . . in the same manner as if the order had been issued by a tribunal of Georgia." (Emphasis in original by court) OCGA § 19-11-155 (a). For purposes of UIFSA, the term "obligor" means an individual or the estate of a decedent that: (A) owes or is alleged to owe a duty of support; (B) is alleged but has not been adjudicated to be a parent of a child; (C) is liable under a support order; or (D) is a debtor in a proceeding under Part 7 of this article." Finding that the employer was not an obligor as defined under UIFSA, it lacked standing to challenge the income withholding order. Moreover, the employer failed to initiate proceedings in Louisiana with regard to the IWO. The trial court did not err in dismissing the employer's petition. *Anderson Anesthesia, Inc. v. Anderson*, 776 S.E.2d 647 (Ga.Ct.App. 6/9/15).

C. Indian Tribal Members - A North Dakota state trial court properly registered a South Dakota child support order against a man even though both he and child's mother are members of an Indian reservation, the North Dakota Supreme Court ruled. *State v. Lavallie*, 861 NW 2d 168 (N.D. 3/24/15).

1. Mother gave birth to a child in 2010. She received TANF benefits from South Dakota from July 2011 to July 2012. South Dakota entered a support order on July 18, 2011. In August 2012, South Dakota Child Support registered the order in North Dakota, requesting the Devils Lake Regional Child Support Unit to enforce the support order against Father. The North Dakota district court notified Father of the registered order and informed him that he had twenty days to request a hearing on the validity of the registration and that failure to contest the validity or enforcement of the registered order would result in confirmation and enforcement of the order. Father failed to timely contest the order, which was registered in North Dakota on November 7, 2012.

2. In May 2014, Father moved to dismiss the order, asserting the South Dakota court lacked personal and subject-matter jurisdiction. In his motion to dismiss, Father cited 25 U.S.C. § 1322, which explains that state courts may not take jurisdiction over actions involving Indian parties and occurring within Indian country. The district court denied the motion to dismiss, finding the motion frivolous. Father appealed.

3. The high court acknowledged its previous decisions holding that "state courts have no jurisdiction over civil causes of action involving Indians, arising within the exterior boundaries of an Indian Reservation, unless a majority of the enrolled residents of the Reservation vote to accept jurisdiction." However, it also explained, that "tribal courts and state courts have concurrent subject-matter jurisdiction to determine a support obligation against an enrolled Indian, where parentage is not at issue and the defendant is not residing on the Indian reservation when the action is commenced. *Rolette Cnty. Soc. Serv. Bd. v. B.E.*, 2005 ND 101, ¶ 12, 697 N.W.2d 333. In *Rolette Cnty.*, we reasoned collecting debts owed to a state does not significantly affect the tribe's interest in self-governance. *Id.* at ¶¶ 11-12."

4. Moreover, the high court pointed out, the claim here arose outside the boundaries of the Indian reservation. The child was born in South Dakota. Both the child and mother lived in South Dakota and received welfare benefits there from July 2011 to July 2012.

5. Father was actually arguing South Dakota's lack of *personal* jurisdiction over him when entering the order, not subject matter jurisdiction as he claimed. Accordingly, when Father failed to contest registration after the 20-day period prescribed in UIFSA, he was thereafter barred from doing so.

D. Interest - A California trial court did not err in ordering a noncustodial father to pay interest that had accrued under an order issued by another California county, the California Court of Appeals ruled. Such interest "cannot be waived, forgiven, modified, reduced, or terminated." Thus Father's move to San Bernardino County after Riverside County had issued its child support order did not obviate Father's obligation to pay the interest charges. The trial court therefore did not err in ordering Father to pay the interest upon Florida's request. *County of San Bernardino Child Support Div. v. John, II*, (Cal.Ct.App., No. E061564, 2/14/16) (unpublished).

1. In 2002, the Riverside County Family Law Court ordered Father to pay child support. Thereafter, Mother and the child moved to Florida. Father thereafter moved to Los Angeles County, and then San Bernardino County. Florida at first asked California not to collect the interest. California agreed, collecting only current support and the accrued arrearage. Subsequently, after the child had emancipated, California advised Florida that Father had satisfied his obligation and thus intended to close its IV-D case. Florida then asked California to collect the unpaid interest. The San Bernardino trial court entered judgment against Father accordingly. Father appealed.

2. Affirming, the appellate court opined that "accrued arrearages are treated like a money judgment for purposes of assessing statutory interest. Unless otherwise specified in the judgment, interest accrues as to each installment when each installment becomes due and continues to accrue for so long as the arrearage remains unpaid. Consequently,

notwithstanding changed circumstances, or a claimed lack of clarity in a court's order assessing child support arrearages, courts have no authority to waive or forgive interest accrued on past-due child support."

3. The court also rejected Father's argument that his interest charges were eliminated when Riverside County closed its IV-D case. Rejecting this argument, the appellate court quoted the trial court in saying that when Riverside DPSS "closed" its IV-D case in 2005, "it doesn't mean the order is adjusted to zero. It doesn't mean the order disappears. The only thing that means is that the Department of Support Services is no longer participating in the collection and disbursement of that support order. It just puts the parties in the position of handling it among themselves."

E. Jurisdiction to Enforce vs Jurisdiction to Modify -

1. A Florida trial court erred in holding that because it lacked subject matter jurisdiction to retroactively modify an Illinois child support order prior to registration, it also lacked subject matter jurisdiction to enforce a noncustodial father's arrearage that had accrued under it prior to registration, the Florida Court of Appeals held. The appellate court noted that neither the Florida trial court's order prospectively modifying support post-registration nor its previous temporary order holding that it lacked jurisdiction to enforce the pre-registration arrears constituted res judicata precluding a subsequent adjudication. The case was remanded back to the trial court for a hearing on Father's pre-registration arrearage. (The case had been significantly delayed due to Father's Ch. 11 bankruptcy action and appeal stemming therefrom.) *Dept. of Revenue ex Rel. Davis v. Davis*, 173 So.3d 1043 (Fla.Ct.App. 7/15/15), *reh'g denied*.

2. A Massachusetts Family and Probate Court had subject matter jurisdiction to enforce, but not modify, a California dissolution decree that required the noncustodial father to pay child and spousal support, the Massachusetts Supreme Judicial Court ruled. Because the trial court lacked subject matter jurisdiction to modify the California order or extend California's duration of support, the stipulated agreement entered into in Massachusetts for Father to pay continuing support and the child's college expenses was void, as was the trial court's subsequent contempt order for Father's failure to pay those costs. *Cohen v. Cohen*, 470 Mass. 708 (Mass. 2/23/15).

   a. The parties' 1999 California dissolution decree required Father to pay child and spousal support to Mother. Father in 2002 moved to Massachusetts and the order was registered there in 2004. Upon Father's failure to pay the underlying order, the Massachusetts IV-D agency, on Mother's behalf, initiated contempt proceedings against him. Mother at all times remained in California.

b. The Massachusetts trial court subsequently issued multiple orders that sought to enforce the California support order. The orders incorporated the parties' stipulated agreements, which, *inter alia*, obligated Father to pay the child's uninsured medical expenses and to contribute to her college education costs. Neither of those expenses, however, were included in the California dissolution decree. In 2010, the trial court held Father in contempt for failing to pay his child support arrears and for failing to pay the uninsured medical expenses and college costs.

c. Father challenged the trial court's subject matter jurisdiction to enter the judgment. Although he had first raised the jurisdictional objection on appeal, it was not waived. The court observed that "a party has the right to raise subject matter jurisdiction at any time" and that "[a] claim that a court lacks subject matter jurisdiction cannot be waived." Moreover, the high court noted that subject matter jurisdiction "cannot be conferred by consent, conduct or waiver."

d. Because the court had properly registered the California order for enforcement, it had subject matter jurisdiction to issue its contempt orders with regard to those issues specified in the California decree. Accordingly, the trial court also properly assessed Father attorney fees in failing to pay his child support and spousal support obligations.

e. The trial court, however, lacked any subject matter jurisdiction to modify the California dissolution decree. After the parties' 1999 dissolution, Mother continued to reside in California and neither party had filed written consent in California to allow Massachusetts to modify the order. Thus the Massachusetts court lacked any authority to enter orders — including stipulations — affecting the child's college or uninsured medical expenses because those issues were omitted from the California decree. Moreover, because the trial court required Father to continue paying an obligation that it had no authority to enter, it effectively extended the duration of support provided for under California law. This was also erroneous, because the duration of support is determined by the issuing, not enforcing (or modifying) state.

F. Jurisdiction to Enforce When All Parties Have Left the State -

1. An Indiana trial court erred in finding that Wyoming was powerless to determine a noncustodial father's child support arrearage under the original order it had issued after everyone had left the state, the Indiana Court of Appeals decided. Allowing Father credit for payments made to third parties in contravention of the order was not the same thing as retroactively modifying child support. Moreover, Mother's challenge to the Wyoming's arrearage determination should have been by way of appeal in Wyoming, not through collateral attack in an Indiana tribunal. Under the facts of this case, Indiana was required to give Wyoming's determination that Father owed no child support arrearage

full faith and credit under UIFSA and FFCCSOA. *Hays v. Hays*, — N.E.3d — (Ind.Ct.App., No. 62A04-1501-DR-33, 1/12/16).

a. The parties' 2008 Wyoming dissolution decree awarded Mother custody of their three children, determined Father's child support obligation and set his arrearage. Father thereafter relocated to Wisconsin and Mother to Indiana. Father filed petitions in both Wisconsin and Wyoming seeking custody of all three children. In 2011, Wyoming transferred custody jurisdiction to Wisconsin. In 2012, Mother registered the Decree and petitioned for modification of child support in Indiana, where she and two of the children were residing. The parties agreed Wisconsin would have jurisdiction regarding the oldest child, who was living with Father, and Indiana would have jurisdiction regarding the two younger children, who were living with Mother. Father then filed a petition to determine his child support arrearage in the Wyoming court.

b. The Wyoming court — after a hearing Mother did not attend[3] — found in 2013 that Father had made child support payments directly to third parties who were caring for his children and adjudicated his arrearage to be $0.00. Father was eventually given legal custody of all three children. In December 2014, on Mother's Trial Rule 60(B) motion, the Indiana court declared the Wyoming court's order on Father's arrearage null and void. The trial court ruled that after everyone had left Wyoming, that state no longer retained continuing exclusive jurisdiction and thus could not adjudicate Father's request to determine his child support arrearage. Father appealed.

c. Reversing, the appellate court observed that the 2013 Wyoming arrearage determination was entitled to full faith and credit under Article IV, § 1 of the U.S. Constitution.

> [W]hen a court in a sister state fully considers and finally determines jurisdiction, even if the determination is erroneous, we must give the judgment full faith and credit. Here, the Wyoming court order states the court conducted a thorough inquiry of the other jurisdictions potentially involved in this matter and concluded that it does have jurisdiction over the child support arrears determination. Indiana may not reconsider the Wyoming court's determination regarding jurisdiction.

[3]Mother was afforded notice and opportunity to be heard in the Wyoming arrearage proceeding. The Wyoming trial court noted in its order: "The court understands it was financially not possible for [Mother] to travel to Wyoming but she could have appeared by telephone. The court is aware that [Mother] did, in fact, telephone with respect to that hearing, albeit after the hearing had concluded and too late for her to participate. Beyond that belated telephone call, however, [Mother] did nothing with respect to this case. She did not file an answer or provide any information that could assist the court in its determination."

d. Such was consistent also with UIFSA and FFCCSOA. With regard to UIFSA, the appellate court opined:

> "A basic principle of UIFSA is that throughout the process the controlling order remains the order of the tribunal of the issuing state . . . until a valid modification. The responding tribunal only assists in the enforcement of that order." UIFSA § 604 cmt. The law of the responding state controls with regard to enforcement procedures, but the law of the issuing state governs the nature, extent, amount, and duration of current payments; the computation and payment of arrearages and interest; and the existence and satisfaction of other obligations under the child support order. UIFSA § 604; *accord* Ind. Code § 31-18.5-6-4. "Thus, the calculation of whether the obligor has fully complied with the payment of current support, arrears, and interest on arrears is also the duty of the issuing tribunal. . . . [T]he law of the issuing state . . . governs whether a payment made for the benefit of a child . . . should be credited against the obligor's child support obligation." UIFSA § 604 cmt.

e. The appellate court acknowledged that after everyone had left Wyoming, that state no longer retained subject matter jurisdiction to modify support, noting that "[T]he time to measure whether the issuing tribunal has continuing, exclusive jurisdiction to modify its order, or whether the parties and the child have left the state, is explicitly stated to be at the time of filing a proceeding to modify the child-support order." UIFSA § 205 cmt. It said, however, that awarding credit to Father for payments made directly to third parties was not tantamount to modifying support.

> [T]here is a difference between retroactive modification of a child support order and a credit toward a child support obligation. The Wyoming court heard evidence of Father's "financial contributions toward the maintenance of the parties' children *by making payments* to various people" and determined Father's "current child support arrears *have been reduced* to $0." (appellate court emphasis in original). The taking of evidence regarding payment and the finding that the payments reduced the arrearage indicates the Wyoming court was not retroactively modifying the arrearage, but was giving Father a credit toward his arrearage for payments made outside the strict parameters of the Decree (which required payment to the county clerk via income withholding order).

f. The appellate court went on to say that it was not for an Indiana court to decide if the Wyoming order was in error. Mother's recourse was through the appellate process in Wyoming, not through a collateral attack in Indiana of a sister state's order. The trial court erred in granting Mother's TR 60(B) motion for relief.

2. A California trial court erred in holding that it lacked subject matter jurisdiction to enforce its child support order because all parties had moved out of that state after the order had been issued, the California Court of Appeals ruled. *In re Marriage of Quezada and Quezada*, (Cal.Ct.App., No. G050518, 9/10/15) (unpublished).

    a. California issued its child support order in 1993 as part of its dissolution decree. California modified the order in 1997. At some point, Father relocated to Texas and Mother to North Carolina. Texas in 2002 registered for enforcement the California order and later determined Father's child support arrearage. Mother in 2013 filed in California her petition to determine Father's arrearage. Father moved to dismiss, saying that California had lost jurisdiction to enforce since all parties and the child had left the state and that Texas had modified the California order by imposing interest on his unpaid support. The trial court ruled that California had no interest in the case and granted Father's motion. Mother appealed.

    b. Reversing, the appellate court held that while UIFSA bars an issuing state from modifying a support order once everyone has left the state, it does not bar an action to enforce its own orders that have not been modified by another state. Texas, merely by imposing interest while enforcing the California order, had not modified it by doing so. Therefore, California retained jurisdiction to enforce its order.

G. Registration -

1. Lack of Personal Jurisdiction in Underlying Order -

    a. A Colorado tribunal erred when, in registering an English child support order for enforcement, it failed to consider whether England's exercise of personal jurisdiction over the noncustodial father comported with due process under the United States Constitution, the Colorado Court of Appeals decided. *In re Marriage of Lohman*, 361 P.3d 1110 (Colo.Ct.App. 9/24/15).

        (1) Mother filed her dissolution petition in England, where she resided, and served Father in Colorado. Father did not respond to Mother's petition or appear in the English Court. In 2010, the English Court required Father to pay support. Mother thereafter sought to register for enforcement that order in Colorado. Father contested registration, claiming that he lacked minimum contacts with England. The trial court rejected Father's argument, claiming that under English law, Father had been afforded sufficient due process. The trial court concluded that because the order was properly entered under English law, it need not comport with American due process guarantees. It thus registered the order. Father appealed.

(2) Reversing, the appellate court observed that the U.S. Constitution forbids a United States court from recognizing or enforcing a foreign court's judgment unless the foreign court's exercise of jurisdiction was permissible under the laws of the United States. In support, the appellate court cited the commentary to the 2008 Model Act and several appellate decisions of sister courts. Accordingly, the appellate court remanded for the trial court's consideration on the issue.

b. A New Jersey trial court properly refused to register and enforce a Canadian child support order against a noncustodial father, where there were insufficient minimum contacts to establish personal jurisdiction over him in Canada, the Superior Court of New Jersey decided. This was true even though the child may have been conceived in Canada where the custodial mother resides. *Lescano v. Urena*, (N.J.Ct.App., No. A-6040-12T2, 3/31/15) (unpublished).

(1) The parties met in Canada in December 2004 while Father was visiting his family. Father was a permanent resident of the United States, living in New Jersey. From January 2005 through August 2006, Father made frequent weekend trips to Canada to visit Mother. During that time, the parties engaged in sexual intercourse.

(2) In March 2006, Mother learned that she was pregnant and thought that the child was likely conceived in Canada. The parties' daughter was born in January 2007 in Canada and has dual Canadian and United States citizenship. The parties eventually married and resided for a while in New Jersey. Subsequently, however, Mother returned to Canada. Father gave his written permission for Mother to take the child out of the Unites States as she wished.

(3) In 2010, Mother filed for dissolution in Quebec and served Father by FedEx. The pleadings were in French, and Father did not appear at the dissolution hearing. The Canadian dissolution decree awarded Mother custody and required Father to make support payments. In 2012, when Father failed to make support payments, she sought to register the Canadian decree for enforcement in New Jersey under UIFSA. Father objected, saying that Canada lacked personal jurisdiction over him. The trial judge agreed and Mother appealed.

(4) Affirming, the Superior Court acknowledged that under UIFSA's long-arm statute, sexual intercourse in the state that results in the child's conception is a basis for exercising personal jurisdiction over a nonresident defendant. That fact, however, does not obviate the need to ensure that the forum's exercise of jurisdiction comports with "traditional notions of fair play and substantial justice" under the U.S. Constitution. *See Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316, (1945).

(5) Under the facts of this case, Father's contacts with Canada were insufficient to ensure his due process rights. In support of its conclusion, the appellate court pointed to the following facts: (1) nothing showed Father had general contacts with Canada unrelated to plaintiff to create general jurisdiction, as Father's sole purpose in visiting Canada was to court Mother; (2) while the parties engaged in sexual intercourse in Canada and Father visited Canada between 2005 and 2006, this activity was too insubstantial and remote in time to satisfy the minimum contact test for specific jurisdiction; (3) Father's visits to Canada were temporary and limited, rather than for any extended period of time; (4) Father neither lived in Canada, nor owned or had any business interests or property there, and had not visited Canada in the four years preceding Mother's UIFSA action to enforce the Canadian order; (5) the entirety of the parties' relationship occurred in New Jersey; (6) the parties were engaged to be married when the Mother became pregnant; (7) Father did not cause the parties' child to reside in Canada. Rather, the decision to move to Canada was made unilaterally by Mother; (8) Father's mere acquiescence in allowing the child to live with Mother in Canada did not constitute "purposefully availing oneself of the protection and benefit of the laws of that new state." *Kulko v. Superior Court of Cal*., 436 U.S. 84, 94-95 (1978); and (9) Father, who was born in the Dominican Republic, had been denied access to Canada in his last three attempts to enter the country. Thus his "inability to enter Canada to attend any court proceedings offends our most basic concepts of due process."

2. Non-Parentage as a Defense - A California trial court erred when, in registering a foreign (Swiss) judgment of paternity and support, it granted the man's request for genetic testing, the California Court of Appeals ruled. The appellate court observed that when paternity has been established in another jurisdiction, non-parentage may not be raised as a defense to registering for enforcement the foreign order. *County of Los Angeles Child Support Services Department v. Superior Court of Los Angeles County*, 243 Cal.App.4th 230 (Cal.Ct.App. 11/24/15).

   a. The appellate court noted that non-parentage is not a ground specified in Family Code section 4956 for vacating a registration. Moreover, UIFSA expressly provides that "[a] party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this chapter." (Fam. Code, § 4929; UIFSA (1996), § 315). Moreover, the Swiss paternity judgment was issued with notice and opportunity for Father to challenge, which he did not. He was therefore prohibited from attempting to collaterally attack the order in the California registration proceeding.

   b. Father also claimed that the Swiss court lacked personal jurisdiction over him. Therefore, he argued, the Swiss court could not establish his parentage over th child.

In response, the appellate court stated, "While this would be true *if* the Zurich court lacked personal jurisdiction, [Father] has not yet established that the Zurich court did not have personal jurisdiction and the trial court has not yet ruled on the matter." (Emphasis in original.)

3. Substantially Similar Law — "State" Defined - A Kansas trial court properly registered for enforcement a child support order from Bermuda, finding that the order had been issued by a "state" because Bermuda's procedures were substantially similar to those under UIFSA, the Kansas Court of Appeals held. The appellate court found that UIFSA defines "state" to include: "a foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this act, the uniform reciprocal enforcement of support act or the revised uniform reciprocal enforcement of support act." Agreeing with the lower court that Bermuda met that definition, it went on to say that UIFSA does not require a federal-level reciprocity agreement in order for its orders to qualify for registration under UIFSA. *Hirsh v. Lenzen*, (Kan.Ct.App. No. 112,978, 12/4/15) (unpublished).

4. Technical Deficiencies - A California trial court properly issued and enforced a child support order against a noncustodial mother, even though a Canadian court had issued an order awarding custody to the children's father and the UIFSA petition filed in California contained various technical deficiencies, the California Court of Appeals decided. *Chico v. De Leon*, (Cal.Ct.App., No. B252051, 3/16/15) (unpublished).

   a. Mother alleged several errors on appeal. First, she alleged that California lacked subject matter jurisdiction to issue an order because the matter was pending in a Canadian court. Rejecting that argument, the appellate court observed that no other court had established or entertained a child support order. A 2003 Canadian preliminary order awarded custody of the children to Father but did not address support. The parties' 2004 Canadian dissolution did not address custody or support, nor had Father included a child support request in his dissolution petition. California's court properly exercised subject matter jurisdiction to require Mother to pay support.

   b. Mother also alleged that Father's California petition was deficient because there was no indication that the Canadian court forwarded Father's Support Application to the Superior Court for filing in California. However, the appellate court observed, the California proceeding could have been commenced either by filing a UIFSA pleading in the Canadian court for forwarding to the Superior Court, or by filing the pleading directly in the Superior Court. "While the record on appeal does not affirmatively show which method of filing was used, [Father] was not required to initiate a Canadian support proceeding in order to seek relief in a California court."

c. The court also rejected Mother's contention that Father's petition was not sufficient under UIFSA, noting that Father's petition substantially complied with requirements imposed by California law. Indeed, Father was not required to attach a Canadian child support order to his petition as none had been issued.

d. Mother next alleged insufficient service of process upon her because she was not provided with notice of the prior Canadian proceeding concerning child custody. Rejecting Mother's arguments, the appellate court opined that the California support proceeding was not an action to enforce the prior child custody order issued by the Ontario Court. "Rather, it was an action authorized by the UIFSA to establish a child support order where no other domestic or foreign tribunal had exercised jurisdiction over the issue of child support for the parties' children. Accordingly, whether [Mother] was served with proper notice in the Canadian custody proceeding is not relevant to whether she was subject to the personal jurisdiction of the Superior Court in the California proceeding."

e. Finally, Mother claimed that the citation served in the California proceeding was defective because it was based on pleadings that did not comply with the UIFSA. In particular, the citation cited to URESA, not UIFSA. The court rejected this contention, saying that despite the defective caption, which was merely a clerical error, Mother was afforded proper notice under UIFSA. Moreover, even if there had been defects in the service of process, Mother waived those arguments by filing a general appearance in the California tribunal. "A general appearance by a party is equivalent to personal service of summons on such party. (Code Civ. Proc., § 410.50, subd. (a))." Thus, "defective service is not fatal to personal jurisdiction if the defendant consents to jurisdiction over him or her by making a general appearance in the action." Moreover, [a]fter making additional appearances in the action, Mother ultimately entered into the February 2006 Stipulation and Order to pay child support; she did not raise any challenge to the Superior Court's jurisdiction until she filed her request to vacate all support orders in April 2013. The trial court did not err in refusing Mother's request to vacate its orders.

H. Res Judicata — Privity - A custodial mother and the Texas Attorney General were not in privity in a Texas proceeding to collect an arrearage that had accrued under a Kansas child support order, the Kansas Supreme Court ruled. Accordingly, the mother was able to pursue her claim for interest against the noncustodial father even after he had paid the principle in full. *Cain v. Jacox*, 354 P. 3d 1196 (Kan. 7/24/15).

1. In 1998, Kansas issued an order requiring NFL player Kendyl Jacox to pay child support. In 2008, the State IV-D agency advised the court that it would be providing child support services to Mother. It claimed that Jacox owed $173,654.52 in back support. Finding income withholding to the NFL unsuccessful, Kansas requested that Texas register the

Kansas order for enforcement. The Texas IV-D agency took no action on the request until 2011 when it requested a judgment in the amount of $133,110.10 (representing the principal child support arrearage as of April 1, 2011) with no accrued interest. The amount requested was based on a spreadsheet provided by the Kansas IV-D agency listing both Jacox's monthly support obligation and any support payments he had made.

2. The Texas district court held a hearing at which Jacox appeared and was represented by counsel. Mother was present without counsel, though she was not formally a party to the action. Following the hearing, the court determined that as of June 1, 2011, Jacox was in arrears in the amount of $136,562.10 and entered judgment in that amount. Mother signed the order with the notation from the court that Mother had agreed to the order "only as to form." No appeal from this order was taken, and Jacox paid the judgment in its entirety in 2011.

3. The following March, Mother instituted a Kansas action to collect the interest that had accrued under the order. She claimed that the Texas Attorney General would not seek to enforce interest on Father's arrearage unless that amount was first reduced to a judgment by the Kansas court. Father argued that Texas had the opportunity and authority under UIFSA to adjudicate interest in 2011, but failed to do so. As such, Jacox argued that Mother's claim for interest was barred because the four elements of res judicata had been met: (1) the same claim; (2) the same parties; (3) claims that were or could have been raised; and (4) a final judgment on the merits. The trial court and the Kansas appellate court agreed with Jacox.

4. The Kansas Supreme Court reversed. It opined that it need not determine whether Texas had the authority under UIFSA to ask for interest or whether the Texas and Kansas actions involved the same claim. Instead, it held that the Texas and Kansas actions involved different parties, and therefore res judicata did not apply. In the first place, the high court said, Mother's presence in the Texas court and her approval of the Texas judgment "as to form only" did not suffice to establish her as a formal party to the action.

5. Secondly, the Texas Attorney General was not in privity with Mother. This was true even though the Texas Attorney General's pleadings specifically asked the Texas court to "enter judgment for all support arrearage and accrued interest as of the hearing date." The high court dismissed this, saying that "we must look past form to substance. The reality is that in child support enforcement proceedings such as these, the pleadings are generally pro forma and include a variety of boilerplate statements. The *substance* of the Texas Attorney General's filing was found in the exhibits attached to and referenced in the filings. The exhibits included the [Kansas child] support orders and the spreadsheet prepared by SRS showing the arrearages." The high court pointed out that under Kansas law, the Kansas IV-D agency could not ask the Texas Attorney General to collect interest unless it had first been reduced to judgment by a court of competent jurisdiction.

6. The high court continued:

> Therefore, because the postjudgment interest due and owing on the child support arrearages had never been reduced to an amount certain by the [Kansas] Court, [the Kansas IV-D agency] was legally unable to pursue the recovery of that amount in Texas during the enforcement proceeding pursuant to UIFSA. And because the substance of the Texas Attorney General's claim in the Texas court was limited by the recovery sought by [Kansas], the Texas Attorney General had no interest or stake in recovering or enforcing any postjudgment interest amounts owed under Kansas law. [Mother], on the other hand, clearly did have such a stake. Given this, we must conclude that [Mother] and the Texas Attorney General did not share an interest that was "really and substantially" the same. There was no privity and the "same party" element of the res judicata test is not met, thus ending our analysis. We reverse the lower courts' findings that [Mother's] claims are barred by the doctrine of res judicata and remand this matter to the district court for further proceedings.

III. JURISDICTION TO MODIFY

A. All Parties Leave Issuing State -

1. A Nevada trial court properly held that Norway lacked subject matter jurisdiction to modify a Nevada dissolution decree, where neither party had filed written consent in Nevada allowing Norway to obtain modification jurisdiction and Norway lacked personal jurisdiction over the noncustodial father, the Nevada Court of Appeals ruled. *Vaile v. Porsboll*, (Nev.Ct.App., Nos. 61415, 62797, 12/29/15) (unpublished). (The parties also litigated in California. *See Jurisdiction to Enforce*, this outline.)

   a. The parties' 1998 Nevada dissolution decree required Father to pay support. Thereafter, Mother moved to Norway and Father to California. Norway subsequently issued an order reducing Father's child support obligation. In considering Father's child support arrearage, the Nevada trial court found the Nevada order controlling. Father appealed.

   b. The appellate court found reasonable the trial court's determination that Norway's status as a foreign reciprocating country means that Norway has adopted procedures regarding the modification of United States child support orders that are in "substantial conformity" with the United States' statutes. Accordingly, Norway was powerless to modify Nevada's order absent consents filed by both parties in the Nevada court. Because neither party had filed such consents, and Norway had no basis for exercising personal jurisdiction over Father, the Norwegian order was void. As a result, arrearage accruing under the Nevada order remained enforceable.

c. In so holding, the appellate court omitted another reason for denying Mother's request: as a resident of Norway, Mother could not satisfy UIFSA's requirement that a movant for a child support modification not be a resident of the state in which the modification is sought.

2. An Illinois trial court did not err in modifying a Connecticut order it had registered, even though the custodial mother filed her Illinois petition after the father had moved from Illinois to Florida, the Illinois Court of Appeals ruled. *In re Marriage of Edelman and Preston*, 38 N.E.3d 50 (Ill.Ct.App. 5/21/15).

a. The parties' 2002 Connecticut dissolution awarded Mother custody of their minor children and required Father to pay nominal child support. In 2003, Mother and children moved to Illinois. In 2004, Connecticut increased Father's child support obligation to $188/wk. Father in 2008 also moved to Illinois.

b. In 2010, Mother registered the Connecticut order in Illinois "in order to modify and/or enforce" the Connecticut order. At some point in late 2010 or early 2011, Father moved to Florida. At subsequent hearings, the trial court found Father in contempt for failing to pay child support and medical expenses. Father paid Mother $21,000 in open court to purge himself of contempt.

c. In 2013, Mother filed her request in Illinois for an order requiring Father to pay the child's college expenses. Two months later, Mother filed another petition, this time to increase Father's child support obligation. Father moved to dismiss for lack of subject matter jurisdiction. He noted that the Connecticut order had never been modified by the Illinois tribunal. Hence, he argued, when Father left Illinois for Florida, Mother was obligated to file her request to modify the Connecticut order in Florida. The trial court granted Father's motion to dismiss, and Mother appealed. Reversing, the appellate court held as follows (citations omitted):

> [John argues that] because he no longer resides in Illinois, section 611(a) of the Family Support Act governs the ability of Illinois courts to modify the Connecticut judgment, and the requirements of that section are not met here. (Among other things, section 611(a) requires that the person seeking modification—here, Melissa—must not be a resident of Illinois, or else both parties must have filed, in the issuing state, a consent to permit modification by Illinois courts.)
>
> We reject John's argument. Here, both parties resided in Illinois when the Connecticut judgment was enrolled. Melissa's petition sought enrollment of that judgment "in order to modify and/or enforce" it in Illinois. Thereafter, John and Melissa consented to that judgment's enrollment for both

> modification and enforcement purposes, and an Illinois court entered an agreed order to that effect. Under section 613 of the Family Support Act, if the parties both reside in Illinois and the children no longer reside in the issuing state, Illinois courts have authority "to enforce and to modify the issuing state's child-support order in a proceeding to register that order." Thus, when the trial court entered the parties' agreed order enrolling the Connecticut judgment for both enforcement and modification, the requirements of section 613 were met and Illinois courts gained the authority to modify that judgment.
>
> That Melissa did not actually seek modification of the Connecticut judgment until after registration does not matter: section 609 of the Family Support Act, which governs the procedure for enrolling interstate child support orders for enforcement and modification, provides that a petition for modification may be filed either "at the same time as a request for registration, or later." (Indeed, we note that both parties have since petitioned, in Illinois, for the modification of the Connecticut judgment.) Similarly, John's later move out of Illinois did not divest this state's courts of their authority to modify the judgment, which authority was validly established when he was an Illinois resident. Nor does the record show that, in the time since the Connecticut judgment was enrolled in Illinois, the courts of any state other than Illinois gained authority to modify that judgment. Thus, the record establishes that Illinois courts have continuing exclusive jurisdiction to modify the judgment.

3. A California trial court erred in modifying a child support order it had issued, where everyone had left the state and neither party had filed written consents to allow California to continue exercising modification jurisdiction, the California Court of Appeals held. *M.J. v. S.B.*, (Cal.Ct.App., No. D065319, 2/16/15) (unpublished).

   a. The California trial court in 2007 entered an order requiring Father to pay child support, plus an additional amount for childcare. Later that year, the parties entered into a stipulation suspending Father's childcare payment but kept in force his current child support order. Both parties and the child thereafter moved to New York. Six years later, Father in 2013 filed his request to reduce his child support order, claiming he was now paying child support for another child. Mother responded by demanding that Father prove his present income and support payments for his other child.

   b. The trial court held that because no other court had modified the parties' order, it had subject matter jurisdiction to do so. Based on the evidence before it, the trial court reduced Father's child support order from $564/month to $215/month. The State appealed.

c. Reversing, the appellate court observed that both parties and the child had left California and neither party had filed written consent allowing California to retain modification jurisdiction. Accordingly, when everyone left California, California lost subject matter jurisdiction to modify its child support order.

B. At Least One Party Remains in Issuing State -

1. An Oregon trial court erred in dismissing a custodial mother's request to modify child support for her disabled child on grounds that once the noncustodial father left the state, it lost power to modify the support obligation, the Oregon Court of Appeals ruled. The appellate court observed that Oregon continued to have continuing exclusive jurisdiction because Oregon issued the child support order as part of its dissolution decree and the mother and child continued to reside there. *In re Marriage of Vaughn*, — P.3d — (Or.Ct.App., Nos. 159914910, A157678, 12/16/15).

2. A Maryland court had power to modify a child support obligation it had issued for a now-adult disabled child, even though the mother and child relocated to Nevada, the Maryland Special Court of Appeals held. Because the noncustodial father remained in Maryland, it retained continuing exclusive jurisdiction to modify the child support order. *Wilson v. Prince George's County Office of Child Support Enforcement, ex rel. Musgrove*, (Md.Ct.App., No. 1981, 7/13/15) (unpublished).

3. A California trial court erred by refusing to set aside child support orders it had issued while Michigan retained continuing exclusive jurisdiction over its own child support order, the California Court of Appeals held in an unpublished opinion. Remand was warranted to determine when the noncustodial father left Michigan, and hence, allowed California to modify Michigan's child support order. *Riverside County Dept. of Child Support Services v. Briscoe*, (Cal.Ct.App., No. G050115, 5/5/15) (unpublished).

   a. In 1997, Mother gave birth to a child in Michigan. In 1998, Mother filed for public assistance in California. In response, the Riverside County IV-D agency initiated a California paternity action against Father who resided in Michigan. There was apparently no nexus between Father and California, and the County IV-D agency did not properly serve Father with notice of their paternity and support action.

   b. Meanwhile — before California had issued a judgment — Mother filed her Michigan paternity action against Father. In January 1999, after service of process to Father, Mother obtained a default judgment requiring Father to pay $113/wk in child support. Just two months later, in March 1999, California issued its own order against Father for $459/month, despite the lack of personal service upon him in compliance with California law (although attempts had been made). The order in no way recognized or acknowledged the existence of the Michigan order.

c. Four months later, in July 1999, the Michigan court entered a "consent judgment of custody" that awarded the parties joint physical and legal custody and reserved child support until further order of the court. The order provided, however, that each parent "shall be solely responsible for the support of the minor child while he is in their respective possession," and required Father to maintain health insurance for the child through employment if available at a reasonable cost.

d. There is nothing to indicate that California ever recognized the Michigan order. It continued to charge support under the order it had issued in 1999. Six months after the Michigan judgment was filed, in February 2000, California moved to increase Father's child support order $100/month. California again failed to serve Father with process in compliance with California law but nevertheless entered a default judgment against him in April 2001 for the requested amount.

e. Seven years later, in July 2008, California again moved to modify support. It is not clear how Father found out about the hearing. Nevertheless, Father, who was by then residing in Texas, hired counsel to represent him in the California action. Counsel filed a general appearance and did not contest jurisdiction. At the eventual hearing in April 2009, Father's counsel "acquiesced" to the State's request for child support in the amount $589/month.

f. Two years later, Father in 2010 filed his own paternity action in California. He alleged that Mother was in violation of the Michigan order with regard to parenting time and requested sole physical custody of the child. After some discussion between the California and Michigan judges involved in their respective actions, the Michigan court on February 8, 2011 determined that neither party nor the child was residing in Michigan and that "another state was a more appropriate forum." Accordingly, the Michigan family judge relinquished jurisdiction "over child custody matters" to the California court.

g. On the heels of that decision, Father sought to set aside all child support judgments California had issued prior to Michigan's relinquishment on February 8, 2011. The trial court denied Father's motion, saying that Father had only six months after his counsel had filed his appearance in 2008 to file such a motion. Father appealed.

h. In a lengthy but well-worded opinion, the appellate court held as follows:

(1) Father had not been provided notice of either the original 1999 or the 2001 California orders. Moreover, there was no basis for California's exercise of personal jurisdiction over him with regard to those two orders. It noted that Father's acquiescence in allowing the child to spend time with Mother in California was even less of a connection to a forum state than those found

insufficient in *Kulko v. Superior Court*, 436 U.S. 84 (1978). Those orders were thus void.

(2) Counsel's appearance in 2008 did not serve to retroactively validate the 1999 judgment and 2001 modification. "[Father's] attorney's general appearance in 2008 did not establish personal jurisdiction retroactive to 1998. It only established it subsequent to September 11, 2008 [when Michigan acquiesced to California's jurisdiction].

(3) Michigan did not acquiesce jurisdiction until February 8, 2011. The Michigan order relinquishing jurisdiction noted that Father had by February 8, 2011 already left Michigan. Until that occurred, California could not acquire modification jurisdiction under UIFSA and FFCCSOA. Because it was not known when Father left Michigan to reside in Texas, remand was required; the date Father left Michigan for Texas is the earliest date upon which California could acquire jurisdiction.

(4) The 1999 Michigan order awarding the parties joint physical custody and reserving child support was, in fact, a child support order under UIFSA. First, a reserved order that contemplated each parent providing support while the child was in their custody contemplates child support, both under Michigan and California law. Second, the Michigan order required Father to provide the child's health insurance, which independently establishes it as a child support order under both state's laws. Said the appellate court:

> In the case before us, the 1999 Michigan judgment qualifies as a child support order under both California law and under Michigan law. Section 17000, subdivision (b) provides that a "`child support order' means any court order for the payment of a set *or determinable amount of support by a parent or a court order requiring a parent to provide for health insurance coverage*." (Italics added.) This definition is disjunctive. It is enough that a parent be required to pay a sum of money or provide for health insurance. The 1999 Michigan judgment, as we saw too many pages ago, certainly does that. We would add that in California it is possible to have "zero dollar" child support orders when custody and incomes are in equipoise. (E.g., *In re Marriage of Bardzik* (2008) 165 Cal.App.4th 1291, 1308 ["As we have noted, the support order going in was zero-zero. Now, it was zero-zero precisely because both parents were working when the order was made, both parents made close to the same income when the order was made, and the `time share' was equal."])

(5) There was nothing precluding Riverside County from seeking reimbursement of its TANF expenditures on the child's behalf. It was limited, however, to collecting amounts that had accrued under the Michigan, not California, orders.

(6) Watch your service of process closely. The appellate court concluded with "[i]n the interests of justice, [Father] will recover his costs on appeal from Riverside County. This entire matter could have been avoided if Riverside County had taken more care to properly serve [Father] in Michigan in 1998."

4. A Tennessee trial court erred in dismissing a custodial mother's petition to modify support, where Tennessee had issued the support order and Father continued to reside in Tennessee, the Tennessee Court of Appeals ruled. The appellate court noted that neither party had filed written consent in Tennessee allowing another state to modify support. Thus it was of no moment that Mother and the child had moved to Nevada. *Blake v. Blake*, (Tenn.Ct.App., No. M2014–01016–COA–R3–CV, 3/30/15) (slip op).

   a. Father argued on appeal that if the Tennessee court had jurisdiction to consider Mother's petition to modify child support, then it should find Tennessee had jurisdiction to hear his counter-petition for contempt regarding Mother's alleged interference with his visitation. Father asserted that Mother's petition to modify his child support obligation necessarily required the resolution of his counter-petition because the amount of child support he owed was dependent upon the number of days he exercised parenting time with the child.

   b. The appellate court was not persuaded by this argument. "The UIFSA and the UCCJEA may create parallel proceedings in different states regarding custody and support, but the UCCJEA squarely addresses issues related to custody and visitation. Therefore, the Nevada court is the appropriate venue to consider Father's petition for contempt based on Mother's alleged interference with his visitation." The appellate court added that it had recognized that the interplay between the UCCJEA and the UIFSA "can create 'parallel proceedings in different states' which can in turn potentially lead to the 'awkward' and unsatisfactory severance of custody from child support."

5. A Massachusetts Family and Probate Court had subject matter jurisdiction to enforce, but not modify, a California dissolution decree that required the noncustodial father to pay child and spousal support, the Massachusetts Supreme Judicial Court ruled. Because the trial court lacked subject matter jurisdiction to modify the California order or extend California's duration of support, the stipulated agreement entered into in Massachusetts for Father to pay continuing support and the child's college expenses was void, as was the trial court's subsequent contempt order for Father's failure to pay those costs. *Cohen*

v. Cohen, 470 Mass. 708 (Mass. 2/23/15). (For a full discussion of this case, *see Jurisdiction to Enforce*, this outline.)

C. Play-Away Rule - An Illinois trial court erred in modifying a Louisiana child support order where the petitioner-mother resided in Illinois and that court lacked personal jurisdiction over the respondent-father, the Illinois Court of Appeal decided. The appellate court held that Illinois lacked personal jurisdiction over Father. Therefore, Illinois' modification of another state's order was deficient under both UIFSA and FFCCSOA. Moreover, Mother resided in Illinois, and thus could not satisfy UIFSA's requirement that she not be a resident of the state in which the modification is sought. Because Mother's petition failed under both UIFSA and FFCCSOA, there was no need to determine whether UIFSA was preempted by federal law. *Voegtle v. Richards*, (Ill.Ct.App., No. 5–14–0619, 10/8/15) (unpublished).

D. Redirection of Payments - A trial court's order changing the method of payment, but not the amount of a child support obligation, is not a modification of a support order restricted by UIFSA's jurisdictional rules, the Tennessee Court of Appeals decided. *In re Justin H*. (Tenn.Ct.App., No. M2013-02517-COA-R3-JV, 5/29/15) (slip op).

1. In a well-publicized case, Tennessee resident Torry Hansen in 2009 adopted a child from Russia. As part of the adoption process, the adoption agency, World Association for Children and Parents ("WACAP") and Hansen entered into a written placement agreement, in which Hansen agreed to "remain financially responsible for all costs of care for the child" if he was removed from Ms. Hansen's home, and she agreed to "reimburse WACAP for any and all costs incurred by WACAP for the care of the child after removal from [her] home."

2. Shortly after the adoption, Hansen began experiencing behavioral difficulties with the child. In April 2010, Hansen placed the child on a one-way flight back to Russia. On the transnational flight, the child was unaccompanied and had no provisions and no luggage besides a backpack. Ms. Hansen pinned a note to the child's backpack addressed to the Ministry of Education in Moscow. The note described Justin as "mentally unstable" and asserted that Ms. Hansen was "misled by the Russian Orphanage workers and director regarding his mental stability and other issues." For those reasons, Ms. Hansen said, she no longer wanted to parent the child. In the note, Ms. Hansen indicated that she was "returning [the child] to [the Ministry of Education's] guardianship and would like the adoption disannulled [sic]." After the child was delivered to the Ministry of Education, he was placed in a Russian children's home/orphanage.

3. In 2010, WACAP sued Hansen for child support in the Tennessee trial court. Hansen filed numerous motions, but neither appeared for hearings not responded to discovery. The trial court ordered Hansen to pay $1,000 per month in ongoing support The court ordered Hansen to remit her child support payments by mailing or delivering a check "to

the Clerk of the Circuit Court of Bedford County, Tennessee, together with any applicable Clerk's fee, unless otherwise directed by this Court." The Clerk would then forward the funds to the child's legal custodian in Russia.

4. Hansen failed to honor the court's child support order. WACAP filed a contempt action. In 2013, the trial court entered an order modifying only the manner and method of payment of Hansen's child support obligation, given the Clerk's apparent difficulty in converting currency. Commencing on March 1, 2013, the court ordered Hansen to mail her child support payments directly to counsel for either WACAP or the child (who had been added as a party to the lawsuit) rather than to the court clerk's office. Counsel was directed to deposit the funds into his law firm's trust account and then to wire "or transmit such funds to Mr. Mityaev or to the appropriate custodian or representative of the child for deposit into the trust account for the benefit of the child."

5. Hansen appealed, arguing, *inter alia*, that because she had relocated to California and the other petitioners were out-of-state entities, the Tennessee trial court lacked subject matter jurisdiction to modify the child support order by changing the manner in which payments were to be made.

6. The appellate court acknowledged that under UIFSA, a trial court is no longer empowered to modify a support order once the parties and child have left the issuing state. However, it said, a mere change in the method of payment was not a "modification under UIFSA." Said the appellate court:

> The UIFSA does not define "modification." However, where UIFSA is silent, the Full Faith and Credit for Child Support Orders Act "FFCCSOA", 28 U.S.C. § 1738B, "may help fill any gaps." Section 1738B(b) of the FFCCSOA defines "modification" as "a change in a child support order that affects the amount, scope, or duration of the order and modifies, replaces, supersedes, or otherwise is made subsequent to the child support order." Other courts have applied this definition in order to determine whether a child support order has been "modified" for purposes of the UIFSA. *See, e.g.*, *State ex rel. Children, Youth & Families Dep't v. Andree G.*, 143 N.M. 195, 202-203, 174 P.3d 531, 538-539 (N.M. Ct. App. 2007).
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> Applying the definition found in the FFCCSOA, we conclude that the trial court did not impermissibly "modify" the original child support order by changing only the intermediary designated to receive Ms. Hansen's child support payment. The original order required Ms. Hansen to pay $1,000 per month to the circuit court clerk, who would apparently send the payment to the designated account in Russia.

7. The appellate court went on to say that despite Hansen's relocation to California, the Tennessee court retained jurisdiction to enforce its order. "The loss of continuing exclusive jurisdiction does not deprive a tribunal of the power to enforce arrearages that have accrued during the existence of a valid order. Tenn. Code Ann. § 36-5-2205 cmt." The appellate court affirmed the trial court's contempt findings and other orders.

E. Registration - Technical Deficiencies -

1. A Michigan trial court had jurisdiction to retroactively modify a child support order at the time it was entered, and thus, such order was entitled to recognition and enforcement upon registration in Illinois, the Illinois Court of Appeals held. The noncustodial father argued that the order was not entitled to recognition because the custodial mother did not expressly mention UIFSA in her registration petition. The court rejected Father's argument, because Mother was registering a Michigan order that had been entered under UIFSA. *In re Marriage of Schlei*, — N.E.3d — (Ill.Ct.App., No. 3–14–0592, 12/10/15).

2. A Mississippi trial court did not err in refusing to modify a Tennessee child support order where the petitioning custodial mother had failed to properly register the order in Mississippi, the Mississippi Court of Appealed ruled. *Nurkin v. Nurkin*, 171 So. 3d 561 (Miss.Ct.App. 4/7/15).

   a. The parties'2011 Tennessee dissolution decree required Father to pay child support and outlined his parenting time rights. Thereafter, Mother and her child relocated to Mississippi and Father to Georgia. In 2012, Mother filed her request in Mississippi to restrict Father's parenting time rights and to modify support. The trial court granted Mother's request with regard to Father's parenting time, but dismissed her modification request. Father and Mother both appealed.

   b. Father alleged the trial court had no authority under UIFSA to modify his parenting time. The appellate court agreed, but said the trial court's authority to decide parenting time derived from the UCCJEA, not UIFSA. The trial court did not err.

   c. The appellate court also affirmed the trial court's dismissal of Mother's child support modification request, saying:

      > On cross-appeal, Caroline argues that the chancellor should not have dismissed her request to modify child support. Although Caroline recognizes the applicability of the UIFSA to matters involving child support, she would have this Court disregard the jurisdictional requirements of the UIFSA and require the chancellor to hear the request. Caroline could have avoided this problem by taking the appropriate steps under the UIFSA to ensure the chancery court had jurisdiction, first by registering the Tennessee judgment

in Mississippi. Miss.Code Ann. § 93-25-83 (Rev.2013). Regardless, it is not within this Court's power to disregard jurisdictional requirements set forth by our Legislature.

d. In so holding, the appellate court omitted a more fundamental reason for denying Mother's request: as a Mississippi resident, Mother could not satisfy UIFSA's requirement that a movant for a child support modification not be a resident of the state in which the modification is sought.

IV. CHOICE OF LAW

A. Duration of Support -

1. A Connecticut trial court properly applied Florida law in determining that a noncustodial father's child support obligation should continue indefinitely for his adult autistic child, the Connecticut Supreme Court ruled. It was of no moment that Connecticut had modified Florida's child support order after everyone had moved to Connecticut following the parties' 2002 dissolution. *Studer v. Studer*, — A.3d — (Conn., No. SC 19508, 2/23/16).

a. The parties' 2002 Florida dissolution decree awarded Mother custody and required Father to pay child support until the child "reaches the age of [eighteen], become[s] emancipated, marries, dies, or otherwise becomes self-supporting" or "until [the] age [of nineteen] or graduation from high school whichever occurs first, if a child reaches the age of [eighteen] and is still in high school and reasonably expected to graduate prior to the age of [nineteen]." Both parties were aware that the child was autistic at the time of the dissolution, and the Florida judgment specifically referenced the child's condition.

b. Following the dissolution, both parties and the child relocated to Connecticut. In 2003, Father registered the Florida child support order in Connecticut and moved to modify it. The court granted Father's motion and reduced his child support obligation. In 2010, Mother moved for post-majority support in Connecticut. Mother claimed that, as a result of the child's autism, the child would not graduate from high school until after her twenty-first birthday. Consequently, Mother claimed that the child was entitled to support beyond her eighteenth birthday under Florida law. Applying Florida law, the trial court granted Mother's motion for post-majority support and ordered Father to continue paying child support until the child's high school graduation.

c. Before the child's graduation from high school in June, 2013, Mother filed a second motion for post-majority support seeking to extend Father's child support obligation

indefinitely beyond the child's high school graduation. The trial court concluded that Florida law controlled the duration of Father's child support obligation and ordered him to pay child support indefinitely.

d. Father appealed. He argued that because Connecticut had modified the Florida order, Connecticut, not Florida, law controlled the duration of support. Since Connecticut law does not allow for post-majority support past a child's twenty-first birthday, he continued, the trial court erred in requiring him to pay child support indefinitely.

e. The Supreme Court affirmed in a lengthy but well-worded decision. The high court observed that under UIFSA, Florida had issued the original controlling order in 2002. The duration of support was thus governed by Florida law, and Connecticut's subsequent support modifications did not impact that fact. Connecticut law on post-majority support was thus irrelevant, as was the fact that Connecticut had determined Father's consolidated arrearage. The high court went on to say that post-majority support was available under Florida law. The trial court did not err in finding that Florida's duration of support controlled and in requiring Father to pay indefinite support for his adult disabled child.

2. An Illinois trial court erred in ordering a noncustodial father to pay for his child's college expenses, where that was not required under his Georgia dissolution decree and the child was already emancipated under Georgia law, the Illinois Court of Appeals ruled. The appellate court opined that a provision for the payment of college expenses is a form of child support and that, under Georgia law, a parent has no duty to pay for a child's expenses once a child has reached the age of 18. The trial court's order impermissibly modified a non-modifiable aspect of the Georgia order, *i.e.*, its duration of support. Judgment reversed. *In re Marriage of Jones*, — N.E.3d — (Ill.Ct.App., No. 3-15-0237, 1/13/16).

3. A noncustodial father was not entitled to challenge a New Jersey trial court's order granting a mother's request to unemancipate her child and restore child support, where the parties had entered into a consent decree resolving all issues following Mother's petition, the New Jersey Superior Court decided. *Brokaw v. Fedirko*, (N.J.Sup., No. A-3561-13T1, 10/9/15) (unpublished).

a. Subsequent to the parties' 2000 dissolution decree in which Father was required to pay child support and post-secondary educational expenses, Mother moved to Pennsylvania with the child and Father to Illinois. In 2013, Father moved to emancipate the child and terminate support, claiming Mother's whereabouts were unknown. The trial court granted the motion. In 2014, Mother moved to unemancipate the child and restore child support. The parties thereafter entered into a consent decree requiring Father to pay child support, but waiving the arrearage.

b. In challenging the court's later entry requiring Father to pay Mother's attorney fees, Father argued that the trial court lacked subject matter jurisdiction to unemancipate the child and reinstate child support because everyone had left New Jersey when Mother filed her petition. Rejecting this claim, the Superior Court opined that "parties cannot consent to a judgment and then appeal. The rule allowing an appeal as of right from a final judgment contemplates a judgment entered involuntarily against a loser."

4. A Kentucky trial court erred in holding that it had authority to alter the duration of an Indiana child support order because it had modified the Indiana order after everyone had left Indiana, the Kentucky Supreme Court ruled. The trial court did not err in holding that it could modify the child tax dependency exemption, but erred in failing to state its reasons for doing so. *Adams-Smyrichinsky v. Smyrichinsky*, 467 S.W.3d 767 (Ky. 8/20/15).

   a. Indiana issued its dissolution decree in 2005. The decree ordered Father to pay child support for the parties' two children and awarded Mother the dependency exemption. Both parties and the children eventually moved to Kentucky. In 2012, the Kentucky court increased Father's child support obligation. Later that year, Father filed another petition to modify support, saying that both children had become emancipated under Kentucky law. Mother objected, saying Indiana's twenty-one-year emancipation age controlled. The trial court entered a support amount only for the youngest child and also awarded Father the dependency exemption for the children in prior years. Mother appealed.

   b. Reversing, the high court observed that the UCCJEA governs custody and visitation while UIFSA governs child support. After a treatise on the purposes and effects of these laws, the court held that although the parties had failed to properly follow UIFSA's registration procedures, such did not necessarily preclude the Kentucky court from modifying the Indiana child support order. Because neither party had complained of the procedural missteps, and the parties eventually complied (at least substantially) with the registration requirements, the Kentucky trial court did not err in modifying the Indiana child support order.

   c. The trial court erred, however, in applying Kentucky's emancipation age when terminating Father's child support obligation. Indiana's emancipation age is a non-modifiable aspect of its order, which the Kentucky trial court was powerless to alter under UIFSA. The court also found that Indiana ties the dependency exemption to its support determinations. The issue thus constitutes a modifiable aspect of the child support order, rather than merely a non-modifiable property distribution. Accordingly, the trial court did not err in holding that it had jurisdiction to alter the

dependency exemption. It erred, however, in failing to state its reasons for awarding Father the dependency exemption under the facts of this case. Remand was therefore warranted.

5. A New Hampshire trial court erred in failing to grant a noncustodial father's request to emancipate his 18 year-old child under provisions of a New Hampshire agreed entry that modified the duration of support established in the original Massachusetts child support order, the New Hampshire Supreme court ruled. To the extent the trial court erred in applying UIFSA's choice of law provision, such was not a jurisdictional defect but instead a legal error which the mother waived by participating in the New Hampshire agreed entry and in failing to appeal the order as erroneous. *In the Matter of Ball*, 123 A.3d 719 (N.H. 8/20/15).

   a. The parties' 2005 Massachusetts separation agreement, incorporated into their divorce decree, provided for Father to pay support until the "emancipation" of the parties' children. The agreement's definition of "emancipation," consistent with Massachusetts law, required child support to continue after a child had attained the age of 18 or had graduated from high school provided that certain conditions were met. Under the agreement, Father was obligated to pay support for a child until the child reached age 23 if the child was "attending a post-secondary accredited educational training school or a two-year or four-year accredited college program as a full-time student" and was "domiciled in the home of a parent and . . . principally dependent upon said parent for maintenance due to enrollment in the educational program." The parties agreed that their agreement would "be construed and governed" by Massachusetts law.

   b. Subsequently, both parents and the child relocated to New Hampshire. In 2008, the parties registered the Massachusetts order in New Hampshire and agreed to modify it. The stipulated agreement, *inter alia*, provided that the definition of "emancipation" contained in their Massachusetts decree was thereby "stricken" and that New Hampshire law would apply. The parties also agreed that Father's child support obligation would "be payable in accordance with New Hampshire law . . . until the parties' youngest child reaches the age of 18 or graduates from high school whichever is later."

   c. In 2013, Father moved to terminate his support obligation on grounds his oldest child had turned 18 and had graduated from high school. Mother objected, saying New Hampshire lacked subject matter jurisdiction to modify the duration of support established under Massachusetts law. The trial court agreed and dismissed Father's motion. Father appealed.

d. Reversing, the high court observed that nothing in UIFSA deprived the New Hampshire trial court of subject matter jurisdiction, which it defined as "jurisdiction over the nature of the case and the type of relief sought; the extent to which a court can rule on the conduct of persons or the status of things." At most, the trial court's approval of the parties' agreed entry amounted only to procedural error and not a jurisdictional defect. Mother had waived her claim to such procedural error by engaging in the agreed entry and failing to appeal the resulting order.

6. A New Jersey trial court erred in finding that a New Jersey child support order had been "assumed" into the parties' subsequent Missouri dissolution decree, the New Jersey Superior Court decided. The trial court therefore also erred in applying Missouri's emancipation age to the parties' child. *Ingram v. Ingram*, (N.J.Ct.App., No. A-4451-12T4, 7/30/15) (not for publication).

   a. The procedural history of this case is complex. Boiled down to its essentials, New Jersey in 1993 issued a child support order while the parties' Missouri dissolution was pending. Over the years, proceedings took place in both New Jersey and Missouri. Confusion reigned over whether the Missouri or New Jersey order controlled. The trial court found that although the September 1993 New Jersey child support order was issued before the December 1993 Missouri dissolution, Missouri law controlled. The trial court reasoned that the initial New Jersey support order was "assumed into [the Missouri] Divorce Judgement." The later Missouri order thus controlled and was binding on the New Jersey trial court. Mother appealed.

   b. Reversing, the appellate court noted that two orders entered under URESA were in effect. Under such circumstances, courts must employ UIFSA's statutory scheme to prospectively determine the controlling order. In this case, both the Missouri and New Jersey orders would have continuing exclusive jurisdiction. Because the child's home state was New Jersey, the New Jersey child support order controlled. The trial court therefore was required to determine the child's emancipation under New Jersey, not Missouri, law.

7. A Massachusetts Family and Probate Court had subject matter jurisdiction to enforce, but not modify, a California dissolution decree that required the noncustodial father to pay child and spousal support, the Massachusetts Supreme Judicial Court ruled. Because the trial court lacked subject matter jurisdiction to modify the California order or extend California's duration of support, the stipulated agreement entered into in Massachusetts for Father to pay continuing support and the child's college expenses was void, as was the trial court's subsequent contempt order for Father's failure to pay those costs. *Cohen v. Cohen*, 470 Mass. 708 (Mass. 2/23/15). (For a full discussion of this case, *see Jurisdiction to Enforce*, this outline.)

B. Nature of the Order - A Texas trial court did not err in finding that a man whose parental rights were terminated was not responsible for paying his arrearage, where the Michigan child support order was procured by fraud, the Texas Court of Appeals ruled. Although Texas law provides that termination of the parent-child relationship does not relieve an obligated parent from paying any accrued arrearage, Michigan law governed the disposition of the case. Lacking any evidence that Michigan had a comparable law with regard to post-termination arrearage, the trial court did not err in dismissing the IV-D agency's request to collect the unpaid support. In so holding, the appellate court observed that Texas Family Code, § 159.604(a), provides that the law of the 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." *Office of Attorney General v. Duran*, (Tex.Ct.App. No. 13-13-00423-CV, 5/28/15) (memorandum).

C. Statutes of Limitation -

1. A Washington trial court erred in issuing an income withholding order to enforce an arrearage that had accrued under an Indiana child support order, the Washington Court of Appeals decided. Because the child had already turned twenty-eight, the order was no longer enforceable under Washington law. It was of no moment whether the arrearage was still enforceable under Indiana law. *In re Paternity of M.H.*, (Wash.Ct.App., No. 72527-1-I, 9/28/15) (unpublished). Said the appellate court:

> ... [C]ontrary to [Mother's] apparent belief, the law of the issuing state does not govern how long a child support order can be enforced in the registering state. Rather, Indiana law governs on ly the duration "of *current payments* under a registered support order." RCW 26.21A.515(1)(a). (Emphasis added). [Father's] child support obligation ended in 2006, when M.H. turned twenty one. The issue on appeal is therefore not the duration of current payments, but the trial court's authority to enforce the order for arrearages.

2. A Kansas trial court called upon to enforce a man's child support arrearage properly found it enforceable under Kansas law because arrearages in Kansas never become dormant and had the longer statute of limitation, the Kansas Court of Appeals ruled. *Martin v. Phillips*, 347 P. 3d 1033 (Kan.Ct.App. 4/10/15).

   a. The parties' 1989 Kansas dissolution required Father to pay child support. Mother thereafter moved with the child to the state of Washington. Father moved to Missouri but later returned to Kansas. Father's child support obligation ended on August 23, 2001, but disputes remained about Father's past-due arrearage. In 2003, Mother

registered the Kansas order in Washington for enforcement.[4] The Washington court found that Father had failed to pay nearly $68,000 in child support, interest, attorney fees, and unpaid medical expenses. Mother in 2005 sought to register the Washington order in Kansas. Upon Father's appeal, the Kansas appellate court held that the Washington order was the product of enforcing the original Kansas child-support order and thus was not required to be registered.

b. In 2011, Father filed a motion arguing that the judgments against him had gone dormant under Washington law, preventing further collection efforts, because more than 10 years had passed since the child turned 18. The trial court held Father's arrearage collectable, because a child support arrearage never becomes dormant under Kansas law. Father appealed.

c. Affirming, the appellate court observed that in a proceeding to collect arrearages under UIFSA, "the statute of limitations of this state or the issuing state, whichever is longer, applies." K.S.A.2014 Supp. 23-36,604. The appellate court first examined whether Mother's action was one to "collect arrearages" under UIFSA. Said the appellate court:

> All of the amounts at issue in this case — interest, attorney fees, and medical-expense reimbursements — are covered under the term "support order." We would therefore expect them to be part of a UIFSA "proceeding for arrearages": UIFSA is the means of enforcing support orders, and support orders include all of these items.
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> The language of the UIFSA choice-of-law provision confirms this reading. Subsection (a) of K.S.A.2014 Supp. 23-36,604 refers both to "current payments and other obligations of support" and to "the payment of arrearages *under the order*." (Emphasis added.) In other words, in subsection (a), the term "arrearages" specifically refers to arrearages under a support order, and a support order can include interest, attorney fees, and medical-expense reimbursements. The use of the term "arrearages" in the very next subsection (and the very next sentence) is surely intended to be read in the same way, even though subsection (b) does not repeat the words "under the order." So in "a proceeding for arrearages," if the past-due sums come from a "support order" as UIFSA defines that term, they are within the meaning of "arrearages."

[4]Mother asserted that Washington had personal jurisdiction over Father by virtue of the child possibly having been conceived there. Father appeared specially to object, but the Washington court nevertheless registered the Kansas order. Father did not appeal that ruling. The litigation between these parents involved numerous appeals in several states and the federal courts. *See*, *e.g.*, *In re Marriage of Kimbra L. Owen & Daniel D. Phillips*, 108 P.3d 824.

d. Concluding that all of the sums requested were collectable, the appellate court went on to examine whether the Kansas or Washington statute of limitations was longer. It noted that arrears under a Kansas child support order never become dormant.[5] Accordingly, in a battle between Washington, where claims are no longer collectable after 10 years, and Kansas, where judgments never become dormant, Kansas has the longer limitations period. Alternatively, it noted, that prior rulings "by both this court and the Washington Court of Appeals concluded that Kansas was the issuing state for the orders then at issue. *See In re Marriage of Phillips*, 2005 WL 475240, at *3-4; *In re Marriage of Owen*, 126 Wash.App. at 493, 108 P.3d 824. If Kansas was the issuing state for the order now at issue, that would separately support applying the Kansas limitation period."

[5]The appellate court explained a dormant judgment as follows:

[W]e should explain the related concepts of a statute of limitations and a dormant judgment. What we usually refer to as a statute of limitations bars a lawsuit making a particular claim. When a claim is barred because the statutory-limitation period for bringing suit has expired, you can't get a judgment. If you already have a judgment, however, you can also lose the right to use court processes (such as garnishment) to collect on the judgment. In Kansas, we call such a judgment dormant. In Kansas, most judgments become dormant after 5 years if the parties don't take formal action to collect on or renew them. See K.S.A.2014 Supp. 60-2403(a).

We mention this because the UIFSA choice-of-law statute says that the longer "statute of limitation" applies; the UIFSA provision doesn't mention dormancy. [Father] does not suggest that this has any significance, and our court has previously applied the UIFSA choice-of-law provision to the Kansas dormancy statute. That makes sense — neither a dormant judgment nor a claim barred by a statute of limitations may be collected. In addition, quite literally, a dormancy statute is a statute of limitations: it limits by statute one's ability to collect on a judgment. For that reason, our court has even said that "[t]he dormant judgment statute ... is a statute of limitations" (citations omitted).