



ERICSA
EASTERN REGIONAL INTERSTATE
CHILD SUPPORT ASSOCIATION

INTERGOVERNMENTAL TRAINING EVENT

Wednesday September 11, 2024

Advanced Registration Issues

Presented by:



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2024
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Event



UIFSA and the Art of Registration in the Rain

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*UIFSA and the
Art of Registration in the Rain*

Registration is a basic
action on interstate
cases, right?
Or is it?



Registration: A Starting Point

The predecessors to UIFSA, URESA and RURESAs, did not have the formal registration process that we are accustomed to. When one State would enter a support order and then would request another State to enforce said order, it was common for the responding State to initiate a new proceeding to establish a “new” support order. This created the problem of competing orders and issues arrears balances, which substantive law to apply for emancipation, etc.



Before you get to the starting line...

Under
section
507:

- (B) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered.



Sending an IWO Directly to an Employer

Sections 501 - 503:

- An incoming-withholding order issued in another state may be sent by or on behalf of the obligee, or by the support enforcement agency, to the person defined as the obligor's employer or other payor...without first filing a petition...





Section 602 – The Basics

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

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

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

Determining Controlling Order

- Under Section 602:
 - (D) If two or more orders are in effect, the person requesting registration shall do all of the following:
 - (1) Furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;
 - (2) Specify the order alleged to be the controlling order, if any; and
 - (3) Specify the amount of consolidated arrears, if any.



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***Section 314 –
Limited
Immunity***

- (A) Participation by a petitioner in a proceeding under this chapter before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

***316 – Special
Rules***

- Physical presence is not required;
- A copy of the record of child-support payments certified as a true copy...is admissible to show payments
- Documentary evidence may not be excluded from evidence on an objection based on means of transmission

Procedure to Contest Validity

Under section 605:

- (B)(2) That a hearing to contest the validity or enforcement of the registered order must be requested within twenty days after notice...



Defenses

Issuing tribunal lacked personal jurisdiction

Order was obtained by fraud

Order has been vacated, suspended, or modified

Issuing tribunal has stayed the order pending appeal

Defense under the law of this state to the remedy sought

Full or partial payment

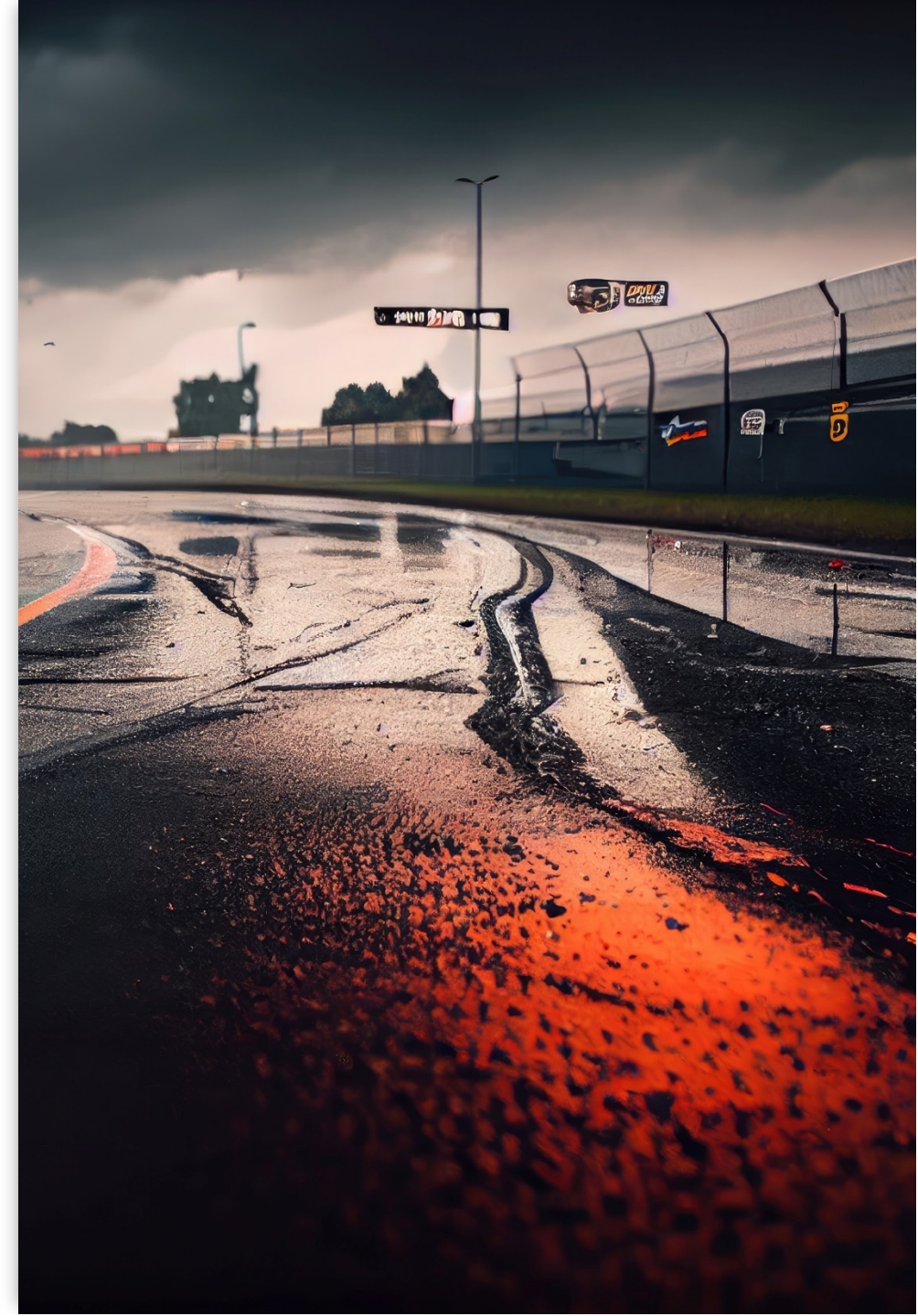
Statute of limitation precludes enforcement

Alleged controlling order is not the controlling order



What About the Process? That's Not So Standard

- Ex parte Reynolds, 209 So. 3d 1122
- Decided May 20, 2016, held:
- Requiring one seeking to enforce a foreign judgment to be in substantial compliance, as opposed to strict compliance, with the registration requirements of the UIFSA is the better-reasoned position. Requiring strict compliance with § 30-3D-602(a) produces a harsh result, especially considering that the subject matter at issue in cases in which the UIFSA applies is child support. The "UIFSA was created to identify ways to improve the efficiency and effectiveness of interstate child support enforcement by addressing interstate cases in a uniform manner." Ala. Admin. Code (Dep't of Human Res.), Rule 660-3-10-.01. Requiring strict compliance with the registration statute does not further the purpose of the UIFSA.



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Less Than Standard Application

Strict Compliance

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

Formal Compliance Not Required

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

Issues in Registration

An obligor with no borders

- Resides in multiple states
- Assets in multiple states
- International



Registration in Multiple States

Section 601 – Registration of Order for Enforcement

- An out of state order or IWO may be registered in this state for enforcement.

Section 602 – Process for registration





Issues in Registration

- What do you mean they filed a contest?
- The limits of notice, service, jurisdiction, and contest

Limits of Action

§607(b) - A defense to registration does not automatically stop registration. The court may:

- Stay the enforcement of the support order
- Continue with the proceeding to allow additional relevant evidence

§607(c) - If the contesting party does not establish a defense under Subsection (a) to the validity or enforcement of the registered support order, the registering tribunal shall issue an order confirming the order.

§315 – Nonparentage as Defense

Limits of Action

- §603(b) - A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

Translation:

- Once an order is registered in a state, that state's law applies to the enforcement, and they can choose how to enforce.



Issues in Registration

Post Hoc Ergo Proctor Hoc,
UIFSA Style
(after this, therefore because
of this)

Can they do that? They
can't do that!





Limits of Action

- §610 – Effect of Registration for Modification
 - **Registration for Modification does not convey jurisdiction to modify**

Issues in Registration

That order looks
funny, but it's not a
comedy, it's comity!

- Special thanks to Joshua Lieberman,
New York City Law Department



Legal Comity

- Definition:
 - Friendly social atmosphere or social harmony
 - A loose widespread community based on common social institutions
 - The informal and voluntary recognition by court of one jurisdiction of the law and judicial decisions of another
- “Comity.” *Meriam-Webster.com Dictionary*, <https://www.merriam-webster.com/dictionary/comity>. Accessed 4 Apr. 2023.



Legal Comity

- Comity is Discretionary
 - Comity is generally granted by the courts, and the burden of proof is on the party asserting that comity should not be granted to show illegitimacy of the order. In re Marriage of Ten, 2019 Wash. App. LEXIS 3058 (Ct. of Appeals of Wash., Div. 1, 2019); S.B. v. W.A., 38 Misc.3d 780 (Westchester Cty., 2012)
 - New York declined to enforce an Israeli order because the Israeli court did not obtain jurisdiction over the wife in the divorce. Aranoff v. Aranoff, 226 A.D.2d 657 (2d Dept., 1996)



Legal Comity

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



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Questions ???





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Send us your best practices!

ERICSA is in the process of gathering intergovernmental best practices from the states, territories, tribes, and our international partners, to disseminate to all of our members at future ERICSA events. Please use the email address info@ericsa.org and the heading “Intergovernmental Best Practices” in the subject field, and send us the top ideas you have seen different jurisdictions use when working interstate cases. We will gather and review your recommendations and send out all best practices shortly. Thank you so much!

Coming Soon: The ERICSA Bulletin Board!

We are thrilled to announce the upcoming launch of The Bulletin Board for ERICSA! This new platform will be your go-to source for the latest news, updates, and essential information in the child support community.

Key Features:

- Upcoming Events
- State, Regional, Tribal, and International Community Insights
- Legislative Updates



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