NEW YORK STATE
OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE
DIVISION OF LEGAL AFFAIRS
2022 UIFSA REVIEW

1/25/23

GREETINGS: This is a review of the significant UIFSA case law from 2022.

INDEX

*** = Unpublished opinions

NEW YORK CASES

Premvadee D. v. Prateek D., NYLJ 6/16/22 (Nassau County Fam. Ct., 2022). Petitioner mother filed two petitions, a support petition and a modification petition, against respondent father. Petitioner and the parties' child live in New York, while the respondent lives in California. The parties were divorced in California, where the age of majority is 18, and entered into a stipulated judgment in California. Petitioner subsequently sought a New York support order so she could extend the time period during which the child is entitled to child support, since the age of majority is 21 in New York. Respondent moved to dismiss the petitions, arguing that California has continuing, exclusive jurisdiction over the parties. As no proof was presented to establish that all of the parties consented to New York jurisdiction, the court concluded that California retains continuing, exclusive jurisdiction over the matter. The court noted that petitioner's argument that she and her child were New York residents since 2007 since the parties' divorce judgment was entered is of no moment. Finally, affording full faith and credit to the parties' California orders, the court was constrained to dismiss both of the petitioner's petitions with prejudice.

Salim v. Freeman, 204 A.D.3d 677 (2nd Dept., 2022). The parties had one child born in Virginia in 2007. In September 2020, the father commenced an action in NY for child support pursuant to the UIFSA. The Support Magistrate issued a temporary order of support directing the mother to pay child support to the father in the sum of $387 semi-monthly. The mother thereafter moved to dismiss the petition claiming that the Family Court lacked jurisdiction because there was a prior child support order that had been issued by a court in the Commonwealth of Virginia. The Support Magistrate granted the mother's motion, dismissed the petition, and vacated the temporary order of support.

The father filed objections. The Family Court granted the father's objections and reinstated the temporary order of support. The mother appealed. The Appellate Division reversed pursuant to the UIFSA. The Appellate Division held:

"Here, the record reflects, and it is undisputed, that support for the parties' child was previously awarded to the mother in an order issued by a court within the jurisdiction of the Commonwealth of Virginia prior to the filing of the father's petition. Accordingly, contrary to the father's contention, his petition was in the nature of a 'modification' petition, rather than a 'denovo' application Since the father resides in the Commonwealth of Virginia, that entity retains continuing, exclusive jurisdiction of its child support order, and New York does not have jurisdiction to modify it. Under these circumstances, the Family Court should have denied the father's objections to the order dated March 19, 2021, and dismissed the father's petition."

Other States' Cases

Sewell v. Walker, 278 A.3d 1175 (D.C., 2022). The parties were awarded shared custody of their child and the father was ordered to pay child support. The mother moved to modify the support order in 2018. At the time of the motion, she and the child resided in Maryland. The father moved to dismiss for lack of jurisdiction, claiming that he had resided in Maryland since 2012.

The mother opposed the motion to dismiss, making four arguments: 1.) that the Superior Court had jurisdiction even if the father lived in Maryland, because he had consented to the exercise of jurisdiction by the District of Columbia courts in 2016, in connection with an earlier motion to modify child support; 2.) the father was equitably estopped from denying that he was a D.C. resident, because he had repeatedly claimed to be a D.C. resident, an argument she submitted documentation for as proof; 3.) that the father maintained a residence in D.C.; and 4). that the Superior Court had continuing jurisdiction to modify the order even if the requirements of the UIFSA residence statutes were not met.

The trial court concluded that the father's consent to D.C. jurisdiction in connection with the 2016 motion to modify did not constitute consent to D.C. jurisdiction in connection with the 2018 motion to modify. The trial court declined to consider the estoppel argument, reasoning that the parties could not confer jurisdiction on the court through their conduct. On the underlying

factual issue, the trial court found that the father was not a D.C. resident. Finally, the trial court concluded that the Superior Court's continuing jurisdiction to modify child-support orders was limited to that provided in the UIFSA. The mother appealed on the consent and estoppel decisions.

On appeal the court noted that the UIFSA allows the D.C. courts to retain jurisdiction to modify a child support order, even if the child and both parents are not D.C. residents, if the parties consent. However, the Court of Appeals agreed with the trial court that the father's prior consent in 2016 did not carry forward to the 2018 modification proceeding. Section 46-352.05(a)(2) of the UIFSA refers to "consent" in the present tense, suggesting that the parties must consent to Superior Court jurisdiction in each particular modification proceeding.

As noted, the trial court declined to consider the mother's estoppel argument, concluding that estoppel could not confer subject-matter jurisdiction on the court. On appeal, the Court concluded that further proceedings were necessary on this issue. The Court explained that in previous cases, it has held that UIFSA's jurisdictional limits are based on territorial considerations and so can be waived and so one parent can waive any objection to a court's authority to award child support, by failing to timely challenge the court's jurisdiction. The Court also held in the past that given that parties can waive an objection to lack of UIFSA jurisdiction through their conduct, it follows naturally that parties could also be estopped from denying jurisdiction under the UIFSA. However, the Court of Appeals has since located two opinions that are to the contrary: Johnson v. Bradshaw, 435 N.J.Super. 100 (Ct. Ch. Div. 2014) (equitable estoppel cannot confer jurisdiction under UIFSA); Stone v. Davis, 148 Cal.App.4th 596, 55 Cal. Rptr. 3d 833, 837 (2007) (in UIFSA case, court states that subject matter jurisdiction cannot be conferred by estoppel).

As such, the Court of Appeals expressed no view on the merits of the mother's contention that the father should be equitably estopped from denying that he was a D.C. resident. The Court vacated the trial court's order and remanded for the trial court to consider that argument.

***Gaines v. Gaines, 2022 WL 16579298 (Wash. App., November 1, 2022). The parties married and had their daughter in 2003. The mother filed for dissolution of marriage in Pierce County in 2004, and the superior court ordered the father to pay child support until the child turned 18. He failed to meet his obligation, and by 2021, when his daughter turned 18, he owed $69,000 in back child support and interest.

In 2021, the father petitioned for modification of his child support obligation. He argued that Washington lacked jurisdiction to enter the child support order in 2004 because his daughter was born in Louisiana; that the couple was living in Louisiana when the petition was filed; and that he was improperly served with the dissolution papers, rendering the child support order void. He acknowledged that his daughter may have been conceived within Washington when he was stationed there on military service. His petition was denied and he thereafter moved to revise the denial. At a hearing, he repeated his jurisdiction and service arguments, asserting that "the entirety of the 2004 matter" was void. The superior court judge agreed with the original ruling that the father's arguments were not appropriate for a petition to modify child support and declined to reverse the ruling. The father appealed.

On appeal, the court held that to the extent the father argued that the superior court should have relieved him from paying the amount of child support in arrears, the superior court was correct that a motion for modification of child support is not the right mechanism. In order to seek a ruling from the superior court that the 2004 child support order was void, the father had to bring a motion to vacate, which he did not do. Thus, it was not an abuse of discretion for the superior court to deny the motion to revise.

The Court of Appeals also concluded that it could not determine that the superior court lacked jurisdiction to enter the child support order in the first place. Washington courts have jurisdiction over a petition for dissolution if one of the parties is a member of the armed forces stationed in the state. RCW 26.09.030(3). And the Uniform Interstate Family Support Act, chapter 26.21A RCW, allows Washington courts to exercise personal jurisdiction over a nonresident "to establish or enforce" a child support order if "[t]he individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse." RCW 26.21A.100(1)(f). The father admitted his daughter may have been conceived within Washington when he was stationed in the state on military service. The commissioner and superior court judge had the entire record before them and neither concluded there was a defect in jurisdiction. The Court of Appeals therefore upheld the lower court's ruling.

Ali v. Ali, 253 Ariz. 102 (App.2022). The parties were married and had one son. They divorced in California and the mother and son moved to Arizona while the divorce proceeding was pending, and the father remained in California. Due to Father's history of domestic violence against the mother, the parties stipulated that the mother would be awarded sole legal and physical custody of the son and the father would have no parenting time or visitation. A California court entered a custody order reflecting this stipulation and provided that "upon entry of the filing of the parties' marital dissolution, California shall relinquish jurisdiction to Arizona whereby Arizona shall have jurisdiction to make any further child custody and child visitation orders in this case." The father registered the California custody order in Arizona.

Two years later, the father petitioned the superior court to modify the California custody order, seeking (1) joint legal decision-making authority, (2) long-distance parenting time, and (3) a modified child support order based on Arizona Child Support Guidelines. In his proposed resolution statement, the father said "[t]he California Court did not establish any order for child support" and asked the superior court to "determine and establish [a] child support order in this matter based on the Arizona Child Support Guidelines." At the hearing, the father confirmed that no child support decree was entered in California. The superior court found that it had subject matter jurisdiction to enter a child support order because California declined to do so.

The superior court ordered joint legal decision-making authority and a long-distance parenting plan that "maximize[d] each parent's parenting time." The court found there was no existing child support order and ordered Father to pay $487.00 in monthly child support pursuant to the Arizona Guidelines. The father moved to amend, asking the superior court to vacate the child support order. He argued for the first time that a California court ordered he pay $0.00 in child support, and because that order was not registered in Arizona, the superior court could not modify it. However, he never provided the alleged California support order to the superior court.

The superior court denied the father's motion. The court reasoned that "the evidence presented at trial did not suggest that a California court evaluated evidence and determined that neither party should pay child support; instead, the evidence was that the California court did not address the issue, so that there was no determination to register." The superior court also noted that it was Father who initiated the proceedings and asked the court to award child support pursuant to Arizona Guidelines. The father appealed.

On appeal, the father argued that the superior court lacked subject matter jurisdiction to enter the child support order. Specifically, he contended that the marital dissolution decree entered in California provided that "neither party shall pay or receive child support from the other parent[,]" and therefore the *Glover* case controlled. In *Glover*, the court recognized that the UIFSA requires a party to register a foreign child support order to confer subject matter jurisdiction on Arizona courts to modify that support order. *See Glover*, 231 Ariz. at 2, ¶ 1, 289 P.3d at 13 (discussing A.R.S. §§ 25-1201 to -1342); *see also* A.R.S. § 25-1309 (requiring a party seeking to have an Arizona superior court modify a child support order issued in another state to first register that order in Arizona).

The court opined that "An order providing that neither parent is required to pay child support to the other parent for the benefit of a child is an order providing for monetary support for that child." *See* A.R.S. § 25-1202. Therefore, a zero-dollar child support award would be a valid order that, under *Glover*, must be registered before it can be modified by another state. However, here the record contained no existing child support order for Arizona to modify.

Instead, the Court of Appeals determined that the superior court properly found that the evidence showed that the California court did not address child support, and "there was no determination to register." This evidence included the father's pre-hearing filings admitting there was no existing child support order and asking the superior court to enter one in compliance with Arizona Guidelines, and his explicit confirmation at the evidentiary hearing that the California court did not enter a child support order.

Because no previous support order was found to exist, the superior court had subject matter jurisdiction to enter the child support order under the UIFSA. The father petitioned the superior court to establish child support, among other things, and the court entered its order in a proceeding to determine "legal decision making, parenting time, and child support." Thus, the Court of Appeals held that the superior court acted within its jurisdiction when it entered the child support order.

***Drake v. Allen, 2022 WL2674177 (Neb. Ct. App. July 12, 2022). On October 26, 2020, the clerk of the district court entered a notice of registration of a parentage and child support order entered in Oklahoma on April 22, 2014. Attached to the notice of registration was a transmittal request from the Oklahoma Department of Human Services to the Nebraska Central Registry concerning the father's child support obligation; the support order directed to the father and issued by Oklahoma's Office of Administrative Hearings; and his child support payment record from the State of Oklahoma. The payment record included in the registration was unsigned and uncertified. On November 4, 2020, the father filed a request for a hearing to contest and vacate the notice of registration of order. An evidentiary hearing was held on January 11, 2021. The

father did not appear, but his counsel offered two affidavits; one authored by him and another by his girlfriend in 2014. Both affidavits stated that the father was in Nebraska on March 12, 2014, and thus could not have been served with process in Oklahoma on that date. The affidavits were received without objection.

The State called a child support enforcement worker for the Platte County attorney's office, and she testified that she received a request from the Nebraska Central Office registry to register an Oklahoma support order related to the father. She filed the request to register with the district court. She identified the exhibits that were also filed with the notice of registration in district court, including the transmittal request from the Oklahoma Department of Human Services to the Nebraska Central Registry; the support order issued by Oklahoma's Office of Administrative Hearings; and a child support payment record from the State of Oklahoma. The transmittal letter and foreign order were received without objection. The father objected to the payment record as evidence that he had notice of the Oklahoma order. The payment record was received as evidence of child support payments received and amounts accrued.

The worker was also asked to identify an affidavit of service, which reflected that the father had been served in the original child support action at an address in Oklahoma City on March 12, 2014. The father objected to the service processor's affidavit on the basis of hearsay and the district court took the exhibit under advisement. While the father did not object to the affidavit's authentication, the affidavit was neither notarized nor certified.

The evidentiary hearing was continued to February 25, 2021 and the State again called the worker and she testified that following the January 11 hearing, the State requested that she obtain a certified copy of the affidavit of service. However, she was informed that she could not obtain a certified copy of the affidavit of service because the proceeding had been administrative, rather than judicial. However, she was provided with a certified copy of the order for support and a certified copy of the payment record, as both documents were a part of the administrative court file. Both documents were offered. The certified copy of the order for support was received by the court without objection, however the father objected to the reoffered copy of the payment record because it “look[ed] like a copy,” and because the record was not relevant to whether he was ever served. The district court noted that the payment record did not seem to bear a seal which the court could feel, but took the objection to the record under advisement.

On March 19, 2021, the district court entered an order confirming registration. The court found that the certified copy of the payment record would be received over the father’s objection. However, the payment record was received only for the purpose of “establishing that there is a child support arrearage as reflected by the Oklahoma records.”

The district court further noted that while the affidavit of service was not certified, testimony was offered to show that Oklahoma officials were unable to provide a certified copy due to the administrative nature of the proceedings. Additionally, the affidavit bears a file stamp dated April 12, 2014, from the Oklahoma Office of Administrative Hearings. Because the caption and case number on the affidavit were consistent with other documents filed in Oklahoma in the original action, the court found the affidavit to be properly recorded and that there was no reasonable suspicion regarding its authenticity. Thus, the affidavit of service was received.

After makings its evidentiary findings, the district court concluded that the father had failed to meet his burden of proving one or more of the defenses set forth under the UIFSA and as such, the court confirmed the registration of the foreign support order. On appeal, the farther argued that the district court erred by (1) finding it had jurisdiction to confirm the registration, as the statutory registration procedures were not followed; (2) receiving an exhibit over his hearsay objection; and (3) finding that he had been properly served in the original action.

The father argued that the district court erred in confirming the registration of the order of support because the applicable statutory registration procedures were not followed.
The Court of Appeals first addressed the argument that the UIFSA registration procedure must be followed in order for the district court to have subject matter jurisdiction to confirm the registration. The court found that no Nebraska statutes or appellate case law which hold that compliance with the UIFSA procedures is jurisdictional. The father's argument was also found to be inconsistent with Neb. Rev. Stat. § 42-741 (Reissue 2016), which outlines the procedure to contest the validity or enforcement of a registered support order. Section 42-741 states that "[t]he nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to section 42-742." See § 42-741. While § 42-742(a) includes "the issuing tribunal lacked personal jurisdiction over the contesting party" as a defense to registration, the statute does not contemplate a lack of subject matter jurisdiction of the registering tribunal caused by a procedurally deficient registration as a defense.
The father also cited to *Chalmers v. Burrough*, in which a father attempted to register a Florida child support order in Kansas, but failed to include a certified copy of the Florida order. The Court of Appeals of Kansas held that the failure of the father to include any copy of the Florida support order, a procedural requirement, deprived the trial court of subject matter jurisdiction. However, the Supreme Court of Kansas later reversed this decision, finding that not meeting the procedural requirements for the registration of a foreign support order "does not necessarily create a jurisdictional void." Thus, the Court of Appeals concluded that the district court had subject matter jurisdiction.

The father also asserted that the registration contained "no letter of transmittal from the person requesting registration, there was no certified copy of the order to be registered, and there was no sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage." The record reflected that the father did not raise these alleged defects before the district court. Additionally, he did not object when the State offered the transmittal request from the Oklahoma Department of Human Services to the Nebraska Central Registry, or the support order issued by Oklahoma's Office of Administrative Hearings. The court therefore declined to consider whether these documents complied with § 42-737(a)(1) and (a)(2) on appeal.

The Court of Appeals then addressed the father's argument that the registration did not contain a certified statement by the custodian of the records showing the amount of any arrearage. He contended that the payment record included in the registration is defective because the statement was unsigned and uncertified. The Court of Appeals agreed that the payment record included in the initial registration did not meet the requirements of § 42-737(a)(3). However, the State later

offered a copy of a signed and notarized payment record, which included the amount of arrearage. Although the father was correct that the unsigned payment record in the initial registration did not meet the statutory procedural requirements, we find that the payment record offered at the continued hearing, which was signed and notarized, cured the registration's procedural defect. Thus, the requirements set forth in § 42-737(a) were satisfied and the district court was permitted to confirm the registration. The Court of Appeals upheld the district court's decision.

***Lagman v. Lagman, 2022 WL 4137605 (App.2022). The parties had three children and divorced in California. In 1998, a California superior court issued a child support order that awarded the mother $600 in monthly child support, $200 per child.

The father later moved to Arizona and in October 2020, the mother registered the California child support order there. In a signed affidavit accompanying her request to register the foreign judgment, she alleged that the father owed $225,945.34 in arrears. The father's attorney filed an acceptance of service, acknowledging he had received the notice of registration, the request to register the foreign judgment, and the mother's accompanying affidavit. The father failed to file an objection to the registration of the order and the allegation of arrears.

The court subsequently issued an order confirming the foreign support order and the alleged arrears. The father filed a motion for relief from judgment alleging that the mother committed fraud and misled the court. He did not deny that a child support order existed, but he argued that if she was owed arrears, she had failed to obtain a proper judgment and had not attempted to timely collect the arrears.

The superior court denied his motion, finding he had failed to object to the mother's notice of registration within twenty days, as required by the UIFSA. The superior court further found that the mother was not required to obtain an arrearage judgment when registering the parties' child support order; under the UIFSA, the registering party is only required to submit an affidavit attesting to the amount of arrears owed. The father appealed.

Arizona's UIFSA specifies the procedure for registering a foreign support order in Arizona. A party seeking registration must submit to the court: (1) a letter requesting registration and enforcement; (2) two copies of the order to be registered, one of which must be certified; (3) a sworn statement by the registering party or a certified statement by the custodian of the records showing the arrearage amount; (4) the name of the obligor; and (5) the name and address of the obligee.

A party who seeks to contest the validity or enforcement of a foreign order must request a hearing "within twenty days after the date of mailing or personal service of the notice" of the order's registration. A.R.S. §§ 25-1305(B)(2), -1306. A party that fails to timely request a hearing is precluded from contesting the registered order, and the court may confirm the order, including the amount of alleged arrearages. A.R.S. §§ 25-1305(B)(3), -1306(B), -1308.
The UIFSA does not bar all objections made outside the twenty-day period, but instead bars "any matter that could have been asserted at the time of registration." A.R.S. § 25-1308. The father's

failure to timely object to the notice of registration waived his arguments that the mother overstated the amount of arrears or that she has "unreasonably delayed" collecting arrears.

The father also claimed that the mother's affidavit was deficient because when filling out the form "affidavit to register foreign (out of state) family support order," she failed to fill out section 3C of the form. This section was only required to be filled out if she was registering multiple support orders. Here, she registered only one support order, and so the form makes it clear that she was supposed to leave this section blank. Notwithstanding that fact, this is a form document provided by the courts to assist individuals in their filings, but it is not required to comply with the registration requirements of the UIFSA. There is no support for the proposition that an individual's omission or mistake in completing the form would render the affidavit deficient if it otherwise complies with the statutory requirements of the UIFSA.

The father also argued that the mother was required to provide more evidence of the arrearage amount than her signed affidavit. He claimed she was required to have "a certified statement of arrears" from a custodian of records, a calculation of arrears, a judgment for arrears issued by a California court, or other supporting documentation. But the UIFSA makes it clear that the only documentation needed to establish the amount of an arrearage is *either* (1) a sworn statement by the person requesting registration, *or* (2) a certified statement by a custodian of the records. She provided her sworn statement, and so she was not required to provide a certified statement by the custodian of the records.

Finally, the father claimed that the mother's registration and affidavit were not sufficient on their own to establish an enforceable order for child support. He claimed that before the court could issue an order and attempt to enforce the registered child support order, the mother was required to comply with A.R.S. § 25-1302(C), which states, "A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later." However, the statute states that an individual *may* file a petition or pleading when filing the request for registration. No other pleading or petition is required to enforce the registered support order: "If the nonregistering party fails to contest the validity or enforcement of the registered support order in a timely manner, *the order is confirmed by operation of law*." A.R.S. § 25-1306(B). The Court of Appeals affirmed.

***Greenstein v. Greenstein, 2022 WL 815394 (N.J. Super. Ct. App. Div. March 18, 2022). The parties married on April 6, 1994, and had a son. While married, the parties maintained a stock account with TD Ameritrade (TD account) as joint tenants, and this account was designated as the son's college fund. The marriage was terminated in March 2010 by a New York judgment of divorce, which included provisions for parenting and child support. The parties signed a stipulation of settlement. The stipulation was dated November 23, 2009, subsequently amended twice, and incorporated by reference, but not merged, into an amended judgment of divorce. On March 29, 2011, the parties entered a modification of the stipulation. The modification included provisions for, among other things, the mother providing copies of the TD account bank statements. Around the times of both the stipulation and of the modification, there were approximately $140,000 in the TD account. The son started college in September 2012 and graduated in June 2017, with approximately $55,389 remaining in the TD account. Neither the

stipulation nor the modification stated how excess funds would be distributed. On December 18, 2017, the father proposed dissolving the TD account by the end of the year and equally splitting the balance between the parties by mother taking her share then removing her name from the account.

On June 25, 2018, the father filed a complaint against the mother alleging breaches of the modification and stipulation. The mother's counterclaim alleged that the father withdrew funds from the TD account for his personal benefit and owed defendant reimbursement pursuant to the agreements.

During a conference on March 9, 2020, the court raised the issues of personal and subject matter jurisdiction sua sponte and adjourned the motions for summary judgment to March 23, and then to April 9, so the parties could brief the jurisdictional issues. On April 9, 2020, the court heard the parties on jurisdiction before it would consider oral argument on the motions for summary judgment. The court announced that regardless of where the parties now live, the judgment of divorce is still valid in New York, and neither party registered it in New Jersey.
The court therefore held that it did not possess jurisdiction in the matter, as the respective Stipulations of Settlement were governed by New York law and subjected to the sole jurisdiction of the Supreme Court of the State of New York, County of New York.

The father moved for reconsideration because the court erred by raising the issue of personal jurisdiction because the mother waived such. The court denied the motion for reconsideration, explaining that the denial of oral argument was because of the lack of new information for reconsideration. The court had heard arguments on jurisdiction and had found that the unregistered support order meant neither the Family nor Law Division had jurisdiction. The father appealed.

The Superior Court agreed that it lacked subject matter jurisdiction. While not specifically analyzing the statute, the court clearly considered the UIFSA filing requirements in concluding it did not have jurisdiction to either hear or transfer the case within New Jersey. A court that enters an order establishing child support retains continuing exclusive jurisdiction to modify the order, and that court's orders remain the controlling child support orders for purposes of enforcement, until continuing exclusive jurisdiction is conferred on another state's tribunal by operation of the UIFSA.

In many cases, the first step in a UIFSA matter is for one party to "register" an out-of-state child support order in the current home state of the child for enforcement purposes. Registration is effective upon filing the order in New Jersey. New Jersey "may modify a child support order issued in another state which is registered in this State" when certain residency and jurisdictional exceptions are met, but the father had not provided support that he did not need to register before using such exceptions for modification. The court repeatedly noted the lack of registration.
The court examined the provisions in the judgment of divorce, settlement, and modifications. The court noted New York's retained jurisdiction; the previous modification in New York; the agreements provisions for the college account, support, and pro rata share of health, educational, and other costs; and the parties' failure to register the judgment or amended judgment of divorce

in New Jersey. Given these circumstances, the Superior Court held that the lower court properly found that New Jersey courts could not have jurisdiction before registering the orders.

***Qualles v. Aaron, 2020 WL 16732366 (N.J. Super. Ct. App. Div. November 7, 2022). The parties had one daughter and the father was the sole custodial parent residing in Massachusetts. The mother lived in NJ. In August 2011, the Family Part in Essex County entered an order addressing various cross-motions filed by the parties including but not limited to issues concerning the sharing of medical expenses, insurance information, disparagement, parenting time and holiday/summer vacation schedules. The final paragraph of the order states:
Pursuant to the [NJ] court's order of December 1, 2010 entered by consent and agreement of the parties, this court shall retain jurisdiction over all custody and parenting time issues until January 1, 2012. Thereafter any further applications shall be filed in the proper court where the child resides.

A Massachusetts custody trial commenced after both parties filed various applications. At the conclusion of that trial, the court ordered, among other things, that father would retain sole physical custody, and that the parents would share joint legal custody, with the father having the final determination in all disagreements. The mother was also ordered to pay a nominal sum per week to the father as child support and immediately notify him and the Massachusetts Department of Revenue upon obtaining employment.

A series of Massachusetts Probate and Family Court orders raising the mother's child support obligation followed in 2014 after she failed to disclose income. She found to be in civil contempt for failure to pay child support and other expenses in October 2015 and in June 2016. Her noncompliance continued, and the Massachusetts child support order was registered in NJ for enforcement and collection in September 2016. An enforcement hearing was held on September 16, 2021 because of the mother's non-compliance with payment and outstanding arrears of $54,099.02. After hearing testimony from the parties, the hearing officer recommended a bench warrant provision to be placed on the account and recommended a lump sum $1,000 payment.

The mother appealed to the Family Part and requested a stay, pending her appeal of a motion for modification she allegedly filed in Massachusetts. The court rejected her request because it lacked jurisdiction. She appealed.

On appeal, the mother requested the court stay the enforcement of child support in NJ and place it on an “inactive list” because of an alleged “identical action in Massachusetts.”

The Superior Court disagreed, explaining that the case was governed by the UIFSA. For enforcement purposes, NJ may register a support order issued in another state. Once an order from an initiating tribunal is registered, NJ will recognize that state's continuing, exclusive jurisdiction. Consistent with the UIFSA, the Superior Court held that NJ properly registered the child support order in 2016. Nothing argued by the mother on appeal undercut NJ’s obligation to continue to enforce the registered support order.

**Wood v. Wood, 2022 WL 4457124 (Ind. Ct. App. 2022). A Michigan court granted the divorce of the parties in 2017 and granted physical custody of their child to the mother and ordered the father to pay $500 a month in child support. The order also stated:
"Child support shall be reviewed in August 2018, to be effective September 1, 2018, to be calculated pursuant to the Michigan Child Support Formula, or as otherwise agreed by the parties, taking into account the parties' incomes, insurance, child care expenses, parenting time schedule, and other provisions of the Michigan Child Support Formula."

The father moved to Indiana and the mother moved to Kentucky. Despite the language of the divorce decree, child support was not reviewed in August 2018. The father kept paying $500 in monthly child support.

In 2019, the mother petitioned the Clark Circuit Court in Indiana to register and enforce the Michigan divorce decree. A year later, at the same time he agreed to register the Michigan divorce decree in Indiana, the father also asked the Clark Circuit Court to modify his child support obligation. The decree was eventually registered in Indiana in 2021 under a mediation agreement that allowed the modification request to move forward.

Ultimately, the trial court found that in accordance with the UIFSA, that Indiana should have continuing, exclusive jurisdiction and Michigan substantive law should apply.
Child support was modified to $485.00 per month, in accordance with Michigan guidelines. The father objected, arguing that the trial court erroneously deviated from the Indiana Child Support Guidelines by applying Michigan law. The trial court denied his motion and he appealed.

On appeal, the father argued that the trial court should have applied Indiana substantive law to modify his child support obligation. The Court of Appeals of Indiana looked to the UIFSA and FFCCSOA, providing that the default assumption under Indiana's UIFSA is that Indiana law applies and, essentially, another state's law may be applied only if some portion of either Indiana UIFSA or the FFCCSOA requires it.

The trial court rested its application of Michigan law on Indiana's UIFSA provision, Ind. Cod. § 31-18.5-6-11, subsection (d): "In a proceeding to modify a child support order, the law of the state that is determined to have issued the initial controlling order *governs the duration of the obligation of support.* The obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by an Indiana tribunal." By its plain meaning, subsection (d) precludes Indiana from lengthening or shortening a child support obligation. It also prohibits Indiana from compounding a child support obligation. However, the Court of Appeals held that it does not justify application of Michigan law in determining the *amount* of support due. Rather, subsection (b), states: "Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by an Indiana tribunal and the order may be enforced and satisfied in the same manner." In light of the default assumption that Indiana law applies and the language of subsection (d), this language indicates that Indiana law applies to modification of the *amount* of child support, but Michigan law determines the *duration of the obligation.*

The FFCCSOA states, in relevant part: "(2) Law of State of issuance of order.--In interpreting a child support order including the duration of current payments and other obligations of support, a court shall apply the law of the State of the court that issued the order." Accordingly, Indiana law applies in a proceeding to establish, modify, or enforce a child support order, but Michigan law applies "in interpreting a child support order." Because the trial court modified, rather than interpreted the order, it should have applied Indiana law.

The mother argued that the Michigan decree explicitly stated that Michigan law should apply to any modification. The Court of Appeals held that the mother overstated the language from the decree. The decree provided, "Child support shall be reviewed in August 2018 ... to be calculated pursuant to the Michigan Child Support Formula...." The language does not concern changes to child support after August 2018. The proceedings in Indiana began about nine months after August 2018 had passed—not to review child support but to register and enforce the divorce decree. Finding that the trial court erred in applying Michigan law to the father's request to modify his child support, the Court of Appeals remanded for it to apply Indiana law instead.

**Smith v. Nevada Division of Welfare and Supportive Services, 2022 WL 16573830 (Nev. Ct. App. 2022). In 2017, respondent Nevada Division of Welfare and Supportive Services (NDWSS) filed a notice of registration of a 2013 California child support order under the UIFSA. The California required the father of the child to pay $238 per month in child support. The father had not made payments since entry of the California order and that he therefore owed approximately $12,376 in child support arrears.

The father did not respond or object to that initial 2017 notice, but in 2021, after retaining counsel, he filed a "Motion to Void Enforcement of Child Support Order," alleging, among other things, that he was never served with notice of the California proceedings, the subsequent California order, or the Nevada notice filed in 2017. The father also alleged in the motion that he became aware of this Nevada action when NDWSS improperly intercepted $19,811.12 out of a $30,000 civil settlement paid to him from the Bureau of Prisons through the Treasury Offset Program.

Counsel for NDWSS argued that the father had been served with notice that his child support arrears were being enforced by Nevada and that respondent had mailed him the statutory notice required to inform him that any federal payments would be subject to future administrative offset. Following the hearing, the district court entered an order denying the father's motion and concluded that because NDWSS had previously notified him that his child support arrears had been referred to the Bureau of the Fiscal Service, he was not required to be provided with additional notice that any federal payments may be subject to offset. The father appealed.

On appeal, the father argued that his due process rights were violated as he was never served with notice of the Nevada child support proceedings, and also contended that NDWSS failed to comply with federal regulations when it intercepted his settlement funds to pay his arrears. Due to the service concerns in this case, Court of Appeals entered an order directing full briefing in the appeal, which instructed NDWSS to address the father's arguments, and to provide briefing on whether the district court complied with the provisions of the UIFSA and whether the father had been properly served.

In its answering brief, NDWSS stated it was not required to register the California support order, as it was enforcing that order through administrative procedures permitted by the state's UIFSA provision, NRS 130.507(2), which states that "[u]pon receipt of the documents [establishing an out of state order of support], 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 an income-withholding order, or both." Additionally, it was argued that the father's due process rights were not violated by the administrative offset of his settlement funds as he was mailed the required notice that his funds were subject to offset under 31 C.F.R. § 285.1 (d) and (h) in April of 2015. Finally, NDWSS indicated that it began the process of registering the California support order by filing the 2017 notice but admits that it did not complete that process or serve that notice on the father due to his incarceration.

In first addressing the service issue, the Court of Appeals noted that the district attorney's office failed to inform the court that it abandoned its attempt to register the California order in light of its decision to continue administratively enforcing the case and that it did not serve the 2017 notice. The district court also failed to address the father's arguments that he was not served with the 2017 notice during the hearing or in its order. Consequently, the district court treated the 2017 notice as properly served and entered an order confirming the amount of child support and arrears owed without providing the father with the due process protections required under the UIFSA. The Court held that the district court abused its discretion by doing so.
Because the father was not served with the 2017 notice as required under Nevada law, the Court the challenged order and remanded this matter to the district court for further proceedings. On remand, the Court clarified that this disposition did not preclude the continued enforcement of the California support order by any means permitted under Nevada or federal law or prevent NDWSS from initiating new proceedings to register the California support order. However, any future attempts to judicially enforce the California support order in Nevada must comply with the registration and service requirements of NRS Chapter 130.

M.A.P. v. E.B.A., 471 N.J.Super. 250 (N.J. Super. Ct. App. Div. March 24, 2022). The parties' child was born in NJ in April 2020. The mother claimed the child was conceived in NYC during a brief relationship with the father, an Argentine national. At that time, the mother was a NJ resident and the father resided either in NY or DC. The mother first filed for paternity in DC, but discontinued the action in September 2020. By the time she commenced this NJ paternity action, the father had returned to Argentina indefinitely.

When the father failed to appear – later claiming he was not properly served with process – the judge conducted a hearing and granted the mother relief based on her testimony alone. A few months later, defense counsel made a limited appearance, seeking dismissal based on an alleged lack of personal jurisdiction over the father and the alleged insufficiency of service of process. The judge denied the jurisdictional motion, but did not address the father's claim that he was not properly served.

On appeal, the father argued that NJ lacked personal jurisdiction over him because the child did not reside in NJ as a result of his acts and directives, he did not maintain sufficient minimum

contacts with NJ and “fair play and substantial justice” should preclude him from being hauled into court in NJ.

The Appellate Division opined that when adopting the personal jurisdiction provision of the UIFSA, it intended a far more limited basis for personal jurisdiction over a nonresident than the mother claimed, stating: “Considering the plain meaning and sense of these words, we conclude that the “act” or “directive” that causes a “child” to reside in this State is most likely limited to the nonresident's affirmative conduct after the child's birth. This is a more sensible reading because, until a plaintiff successfully gives birth, there is no ‘child’ or mother to that child for a nonresident defendant to act upon or direct and no child about which to sue for a declaration of paternity.” The Appellate Division went on to interpret the UIFSA “so that it does not exceed the reach of the due process clause,” therefore holding that the personal jurisdiction provision does not extend to a NJ resident's impregnation outside its borders by a nonresident and therefore, the UIFSA did not support NJ’s exercise of personal jurisdiction.

The Appellate Division also held that there was so sufficient evidence of the father having contacts with NJ to support a claim of general jurisdiction. He sent the mother a letter to her NJ address in April 2020 stating his lack of interest in being involved with her or the child. He also sent text messages while she was in NJ, and allegedly visited the mother on one occasion in 2019 to discuss the pregnancy. The Appellate Division held that without more, these contacts could not support a finding that would be consistent with fair play and substantial justice in exerting personal jurisdiction over the nonresident father. The order was reversed and the matter is remanded to the trial court for the entry of an order dismissing the complaint.

** Wake County on Behalf of Williams v. Wiley, 2022-NCCOA-402. Ms. Wiley was ordered to pay child support to Ms. Williams in Prince George's County, Maryland in 2007. In 2017, the Office of Child Support in Prince George's County (OCS) requested a transfer of the child support order to Wake County for enforcement. At the time of the transfer request Ms. Wiley owed over $42,000 in child support.

On behalf of Ms. Williams, Wake County filed a “Notice of Registration of Foreign Support Order” in Wake County District Court to register and enforce child support against Ms. Wiley in NC. The trial court then entered a confirmation order accepting registration of the Maryland child support order and default judgment in 2018.

In March 2019, Ms. Wiley filed a motion to set aside the order confirming registration of the foreign support order and for default judgment and filed another motion clarifying her relief sought. The trial court dismissed Ms. Wiley's motions without prejudice for failure to appear at the noticed hearing. As of June 2019, Ms. Wiley was over $50,000 in arrears. In October of the same year, Ms. Wiley filed a motion to dismiss the order confirming registration of the foreign support order pursuant to the Federal Rules of Civil Procedure. The trial court heard the motions in November 2020 and denied. She appealed.

On appeal, Ms. Wiley argued that service of the notice of registration of the foreign support order was improper because: (1) she did not reside at the physical address where the pleadings were mailed; and (2) she was not the person named on the registration packet because her first

name was misspelled. NC Rules of Civil Procedure provide that service of "orders, subsequent pleadings, discovery papers, written motions, written notices, and other similar papers" may be made upon a party "by *mailing a copy to the party at the party's last known address* or, if no address is known, by filing it with the clerk of court .... Service by mail shall be complete upon deposit of the pleading or paper enclosed in a post-paid, properly addressed wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service." Wake County complied. In accordance with the rule, Wake County requested Ms. Wiley's last known street address from U.S.P.S. and sent the registration packet and pleadings by mail to that address. At the hearing, Ms. Wiley provided no evidence she had lived at a different physical address than the one on the notice and would not provide her purported current physical address to the trial court when asked. In its order, the trial court concluded Ms. Wiley "provided insufficient evidence to show improper service on the notice of registration."
Ms. Wiley further contended she was not properly served because the original enforcement order omitted a letter at the end of Ms. Wiley's first name, "Darnell" instead of "Darnelle." On this point, the trial court concluded Ms. Wiley had not demonstrated she was "not the person named in said registration." The Court of Appeals agreed that the misspelling of her first name was a clerical error and is not evidence of service upon the wrong individual.

To the extent Ms. Wiley purported to dispute whether the child support order was properly registered in NC, the record revealed that the contents of the registration packet itself met the requirements of the UIFSA. As discussed, Wake County served Ms. Wiley a copy of the registration packet at the mailing address provided by U.S.P.S. Ms. Wiley did not contest the registration within twenty days pursuant to the UIFSA requirements. The trial court's order was affirmed.

**Knutsen v. Knutsen, 2022 WL 17748086 (Minn. App. 2022). The parties had three children and lived mostly in Minnesota, but in 2016, the mother and the children moved to Oklahoma. The father remained in Minnesota. Five years later, he petitioned for divorce in Oklahoma. Twenty-six days later the mother petitioned in Minnesota, seeking marital dissolution and for a determination of child support, child custody, and spousal maintenance.

The father moved to dismiss on jurisdictional grounds. The district court granted, determining: first, that the first-to-file rule gave the father's OK action priority over the mother's; second that Minnesota lacked jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) and the UIFSA because Minnesota is not the children's home state; and third, it applied the UCCJEA's "unjustifiable conduct" provision to decline to exercise jurisdiction because of the mother's purported misconduct of evading service and forum-shopping. She appealed. During this time, the parties' youngest child turned 18.

The mother argued on appeal, among other things, that the district court erroneously declined to exercise jurisdiction over child support. The Court of Appeals of Minnesota held that the district court acted within its discretion in this regard. The OK action was undisputedly filed first, OK was the children's home state and the father filed a comparable pleading for support.

The mother correctly asserted that the father's OK petition did not expressly raise the issue of child support. However, like courts in Minnesota, OK courts must decide child support when resolving a divorce petition involving parties who have a minor child and the age of majority differs between states. Therefore, the district court appropriately refused to exercise jurisdiction to decide the issue of child support in light of the father's comparable pleading for child support in OK, even if child support may be unlikely given that the parties' youngest child was 18 at the time.

**Hina v. Hyat, 2022 WL 669473 (Md. Ct. Spec. App. March 7, 2022). The parties were married in 2016 and lived together in Virginia. The parties separated in 2017 shortly their child was born. The mother was an Indian citizen and she came to the U.S. in 2006 on a student visa and has lived here since. While on maternity leave, she lost her job and her work visa. After the parties separated, the father terminated his sponsorship of her green card petition. Because of her immigration status, she was unable to work in the U.S.

In December 2017, the parties reached an agreement concerning custody and visitation in Virginia. By a separate order, the father was directed to pay $993 per month in child support, in addition to $1,791 in spousal support. In 2018, the mother, who had moved to Maryland, motioned to register the Virginia Custody Order and the Virginia Support Order in Maryland. The father was still living in Virginia. The orders were registered.

About a year later, the mother moved to modify visitation and child support in Maryland. In her motion to modify child support, she alleged that the father had switched jobs and his income had increased by 18% and that the child's expenses also had increased. Meanwhile, the parties divorce was being finalized in Virginia and an amended order of support was issued. The father moved to dismiss the mother's pending motions, arguing that Maryland lacked jurisdiction to modify child support because the mother had not registered an Amended Virginia Support Order in Maryland. The trial court held a hearing on the motion to dismiss and denied it. The court directed the mother to register the Amended Virginia Support Order within 30 days, which she did.

The father's lawyer moved for summary judgment. The trial court ruled that it lacked jurisdiction to modify the Amended Virginia Support Order under the Maryland UIFSA. The court reasoned that it only was permitted to modify a support order issued by the tribunal of another state that was registered in Maryland if the requirements of FL § 10-350 or § 10-352 were met. *See* FL § 10-349 (explaining that a Maryland court may enforce a child support ordered issued in another state if it has been registered in Maryland but may not modify it unless certain statutory criteria are satisfied). Section 10-350 was not satisfied because it required, among other criteria, that the mother be a non-resident of Maryland and, at that time, she was a resident. FL § 10-350(a)(1)(ii). Section 10-352 was not satisfied because it required that both mother and father reside in Maryland, and the father resided in Washington, D.C. FL § 10-352(a).

Daum v. Daum, 518 P.3d 718 (Alaska 2022) The parties were married in Alaska and had one son. They separated in 1997 and the mother and son moved to Ohio. The child was diagnosed with Asperger's syndrome at age seven; at age 18 he was diagnosed with autism spectrum disorder, attention-deficit/hyperactivity disorder, and oppositional defiant disorder. The father,

who remained in Alaska, paid child support pursuant to an administrative order issued by the Alaska Child Support Services Division (CSSD) until the child turned 19.

The father filed for divorce in 2018, when the child was 22. The mother counterclaimed for child support. The superior court held a trial in October 2019. At trial, testimony largely focused on Nathan's needs as they related to his ability to live independently and support himself. The court found that the child had "significant impairments" that he would have "for life" and that his disability would make it impossible for him to fully take care of himself as an adult. An order of support was issued requiring the father to pay $1,065 per month.

The father appealed, arguing that Alaska lost jurisdiction to order child support when the child turned 19 and the original child support order issued by CSSD expired by its terms. He also argued that the Alaskan superior court lacked jurisdiction over the child because Alaska was not his home state.

The Supreme Court of Alaska held that under the UIFSA, the trial court had continuing, exclusive jurisdiction to modify the support order despite the fact it had lapsed. The statutory requirements for continuing, exclusive jurisdiction were met. CSSD is an Alaskan "tribunal"; its original order was issued pursuant to Alaska law; and the superior court has the authority to modify a CSSD child support order. No other support orders had superseded the CSSD order. Additionally, the father continued to live in Alaska following the separation and was a resident of Alaska at the time the mother asked that the order be modified.

The Supreme Court also held that the mother's request for post-majority support was correctly characterized as a modification of the original child support order, rejecting the argument that an "expired order" cannot be modified.

A.B. v. R.B., 2022-Ohio-1105 (March 2022). The parties divorced in 1995 in California and had three children, all emancipated. After their divorce the father moved to Ohio. In 2006, the mother sought to enforce a California child support order by registering it in Ohio under the UIFSA.

Between 2012 and 2015, the Lucas County Child Support Enforcement Agency ("LCCSEA") in Ohio filed three separate motions to show cause against the father for his failure to pay child support under the California order. In 2019, the mother filed a fourth motion to show cause, alleging that the father's continuous failure to pay resulted in the accumulation of arrears in the amount of $82,458.96. She also asserted that the initial California order —which required him to pay $500 per month—was modified by the Superior Court of Orange County, California in 2000, obligating him to pay $1,000 per month for the support of the then minor children and $50.00 per month for arrears.

In 2020, a hearing was held on the mother's motion. The parties and the LCCSEA stipulated that the father owed a total of $21,054.38 in child support arrearages. Most of the testimony at the hearing focused on the value of the father's assets and on his ability to pay. The magistrate ordered the father to pay the mother according to the schedule set forth in the decision and to pay her $6,175 in attorney fees. Both parties filed objections.

The father's objections mostly focused on his ability to pay, whereas the mother argued that the magistrate erred by not ordering him to pay interest on the arrearage amount. Specifically, she claimed that she was entitled to interest under California law—as stated in the California order dated August 22, 2000—and the magistrate improperly modified the California order by failing to award interest on the arrearages.

In 2021, the trial court adopted the magistrate's findings regarding the father's ability to pay. However, the trial court also found that the magistrate erred by failing to include interest on the arrearage award. The trial court determined that eliminating the interest provision of the California Order constitutes a modification of that Order, and this Court lacks jurisdiction to make such a modification.

The father appealed alleging that the lower court erred in overruling the magistrate's decision on the issue of interest in finding that same constitutes a modification of the foreign order.

The Court of Appeals agreed with the father that the magistrate did not make any explicit findings, one way or the other, regarding the interest provision of the California order—and, therefore, the magistrate did not "modify" the order or "eliminate" the interest provision, as the trial court stated. Instead, the magistrate simply failed to award interest on the arrearages. However, the key issue was whether proper enforcement of the California order required the court to award interest on the arrearages, and if so, whether interest should be calculated under Ohio or California law.

Although the father conceded that he owed interest on the arrearages, he argued that the 2006 version of the UIFSA requires interest to be calculated under Ohio law rather than California law. He claimed that the trial court therefore erred by ordering him to pay interest on the arrearages pursuant California law. UIFSA provides that the law of the issuing state governs the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearages under the order. Here, the issuing state was California. Therefore, the Court of Appeals held that under the UIFSA, California law governed the calculation of interest that was owed by the father to the mother under the California order. Under California law, the accrual of interest is not a discretionary matter but is instead controlled by statute and continues until a judgment is satisfied.

**Ex parte Sperry, 2022 WL 17546472 (Ala. Civ. App. Dec. 9, 2022). The father commenced a modification proceeding, alleging that he and the mother resided in Arizona when they were divorced in 2017, that he was presently residing there, and that the mother was living in North Dakota. The father asserted that the trial court had personal jurisdiction over the mother because, she had been arrested in Arizona on May 10, 2022, a few weeks before he filed his modification petition. The mother was served with process in North Dakota on May 31, 2022.
On June 28, 2022, the mother filed a special appearance for the limited purpose of filing a motion to dismiss the modification action on the ground that the trial court lacked personal jurisdiction over her. After a hearing, the trial court entered an order on August 22, 2022, denying the motion to dismiss. The mother appealed.

The mother contended that there was no basis for the conclusion that the contacts she may have had with Alabama were sufficient to subject her to the jurisdiction of an Alabama court. The father contended that, because the parties' children had been Alabama residents for more than a year and because the Arizona court had relinquished jurisdiction, that the trial court had jurisdiction to modify custody under the UCCJEA. The father did not assert in his complaint that the mother had continuous and systematic contacts with Alabama. Therefore, the Court of Civil Appeals held that there was no basis for a determination that the trial court had general personal jurisdiction over the mother. In his complaint, the only contact that the father alleged the mother had with Alabama was her arrest in Montgomery in 2022 in connection with a criminal matter. The mother did not have sufficient minimum contacts with Alabama to fall under the long-arm statute for personal jurisdiction.

Regarding the father's request to modify child support, the Court looked to the UIFSA. The UIFSA provides that, when one of the parties to a child-support-modification action lives outside Alabama, an Alabama court may modify a child-support order issued in another state and registered in Alabama if that court finds that neither the child nor the child's parents reside in the issuing state, the party petitioning for the modification is not a resident of Alabama, and the respondent is subject to the personal jurisdiction of the Alabama court.

Here, the child and the child's parents no longer resided in Arizona, where the judgment sought to be modified was issued. However, because the father, as the party who petitioned the trial court for the child-support modification, was an Alabama resident, the trial court did not have jurisdiction to modify the Arizona judgment's child-support award. Alternatively, the UIFSA also provides that an Alabama court can modify a child-support judgment issued in another state if the child is a resident of Alabama or if a parent of the child is subject to the personal jurisdiction of the Alabama court and all of the parties who are individuals have filed consents in a record in the issuing tribunal for [an Alabama court] to modify the support order and assume continuing, exclusive jurisdiction. Here, there was nothing in the record to indicate that all the parties filed consents in the Arizona court for an Alabama court to modify the support order.

Therefore, the trial court did not have jurisdiction to modify the Arizona child-support judgment and the trial court did not acquire personal jurisdiction over the mother.

***Odigwe v. Wethington, 2022 WL 3640915 (Ky. August 18, 2022). The parties were never married and had one child. After the birth, the mother returned to her home state of Michigan. Shortly thereafter, a paternity action was filed in Ottawa County, Michigan. The Michigan court entered a Consent Judgment of Paternity (Consent Judgment). The Consent Judgment established the father’s paternity, in addition to custody, visitation, and child support.

In 2020, the Michigan court entered an order granting the mother’s motion to change the child's legal residence and domicile to Kentucky, where she and the child moved. The father resided in Missouri. The Michigan court found that it no longer had continuing jurisdiction over the child-custody determination and that any future modifications of the child-custody determination involving the minor child shall be made by an appropriate Court which obtains appropriate subject matter jurisdiction under the UCCJEA.

The father filed a Petition to Register a Foreign Child Custody Determination in Kentucky. With his petition, he filed a copy of the entire Michigan Consent Judgment, including the child support calculations worksheet. The mother did not object. Before the court had ruled on his petition to register the foreign custody judgment, the father filed a Motion to Modify Custody and Parenting time and a proposed Order Regarding Custody and Parenting Time. His motion to modify custody sought joint legal custody and a parenting time schedule. He then filed an Emergency Motion for Summer 2020 Parenting Time. An order was entered registering the foreign custody determination, finding that Kentucky had subject matter jurisdiction over the proceedings, as well as personal jurisdiction over the parties. The order did not address child support.

The mother then filed a Motion to Modify Child Support and requested that the child support payments set by the Michigan Consent Judgment be modified. In response, the father filed a motion to dismiss. He contended that, although he properly registered the child custody portion of the Michigan Consent Judgment under the UCCJEA, the mother had not yet registered the child support order of the Consent Judgment in accordance with the UIFSA.

He further argued that, while Kentucky had jurisdiction over him regarding custody, it had not acquired personal jurisdiction or subject matter jurisdiction over him for the purpose of addressing child support. Specifically, he contended that the court did not have personal jurisdiction over him because none of the criteria listed in KRS 407.5201, which provides a number of bases for a Kentucky court to exercise personal jurisdiction over a non-resident for the purposes of modifying a child support order, were met. Similarly, he reasoned that the court lacked subject matter jurisdiction over the child support order because all of the requirements of the UIFSA were not met.

The mother argued that the Michigan child support order was effectively registered in Kentucky by the father when he registered the Consent Judgment and that by filing that motion, he availed himself to the jurisdiction of Kentucky.

While waiting for trial, the father filed a petition requesting a writ of prohibition in the Court of Appeals. In it, he argued that the court was proceeding or was about to proceed outside of its jurisdiction, and that he would have no adequate remedy by appeal. He reiterated his argument that Kentucky lacked subject matter jurisdiction to rule on child support because the Michigan Consent Judgment had not been properly registered in Kentucky.

The Court of Appeals denied the father’s motion for a writ of prohibition, holding that his argument was not that the court entirely lacked the authority to hear child support cases, but that the circuit court cannot hear this particular child support case because the mother did not meet the procedural requirements in the UIFSA to invoke the circuit court's jurisdiction. As a result, his request should have been brought under the second class of writs.

Nevertheless, the court goes on to hold that even if he had argued under the second class of writs, he would still not have been entitled to a writ of prohibition. In order to qualify for a second-class writ, the Petitioner must show the circuit court is acting or about to act erroneously, there is no adequate remedy by appeal, and he will suffer irreparable harm.

The father claimed that he would be “left without remedy, and an unjustified taking will occur, resulting in the mother becoming unjustly enriched” because Kentucky generally does not allow recoupment or restitution for the overpayment of child support. The Court held that this was an insufficient reason to grant the extraordinary relief afforded through a writ of prohibition.

The father’s alleged harm did not rise to the level required for the issuance of a writ. His only alleged injury was monetary in that he would not be able to recover any child support he was ordered to pay under a Kentucky court order, even if the order is entered erroneously. This alleged financial injury simply is not of the “ruinous nature or ... incalculable damage to the petitioner” required to justify the issuance of a writ of prohibition and thus the Court of Appeals affirmed.

International Cases

**In re Marriage of Hart, 2022 WL3909177 (Cal. App. 1 Dist. 2022). The parties were married in 2003 and had two children, born in 2004 and 2006. Both children were born in Australia. In June 2006, father moved and filed a petition for dissolution in California. The mother and children remained in Australia. In February 2007, the marriage was dissolved. The family court determined that the home state of the children was Australia. The court ordered the father to pay temporary spousal and child support at $14,268 per month. Custody issues were deferred to the Australian courts.

In March 2007, the parties entered into a stipulated judgment on reserved issues, which provided, in part: “Commencing March 1, 2007 and continuing through February 28, 2012, Petitioner shall pay to Respondent the sum of U.S. $5,000.00 per month per child for a total of U.S. $10,000.00 per month in child support and child maintenance for their minor children ....” The Judgment continues: “Commencing March 1, 2012, child support or maintenance shall be by agreement of the parties or as ordered by a court of appropriate jurisdiction.” The Judgment further states that if the mother were to file a motion in any jurisdiction seeking to modify child support before the end of the five-year payment period, all unpaid sums would be forfeited and all further child support proceedings would be determined by a court in Australia or under Australian law.

In May 2019, the mother served a request for production of an income and expense declaration after judgment, stating that the father had “unilaterally reduced child support payments.” Two months later, after the father indicated that he would not comply with her request, she filed a request for a temporary emergency order to compel production of a post-judgment income and expense declaration for the father, as well two years of tax returns. The family court ordered the father to serve the mother’s counsel with an income and expense declaration, including all required supporting documents, as well as the two years of tax returns she had requested.

The father filed a responsive declaration stating he did not consent to the Court's order. He contended that Australia, not California, was the “proper court with jurisdiction over the pending child support issue.” He stated he had supplied the two years of tax returns to Australia's Child Support Agency and was working on putting together his Income and Expense Declaration, with supporting documents as well as two years of tax returns which would be filed prior to the upcoming hearing. He indicated that he had paid $10,000 in monthly child support pursuant to

the Judgment from March 2007 through February 2012. Between March 2012 and March 2019, he “voluntarily” paid $5,000 in monthly child support plus other expenses, including the children's private school tuition and health care costs. The mother reportedly had accepted these payments without issue. However, his income had decreased since 2018. He stated that in June 2019, after he and the mother failed to come to an agreement regarding support, he filed an “application for a child support assessment to Australia's Child Support Agency, Department of Human Services” (Agency), supplying the agency with the required income documents. Reportedly, the Agency had determined that child support would be set at $2,240 AUD.
In her response, the mother argued that California had retained jurisdiction over child support because the father had continuously resided in California since the divorce proceedings were initiated. She also alleged that she had not been served with any process in connection with the Australian child support action.

The father filed a request seeking orders “confirming Australia has jurisdiction over Child Support,” vacating the mother’s pending child support request, setting aside the family court's 2019 orders, and awarding sanctions. The mother responded by noting that the father had continuously resided in California since 2007 and that the parties had never filed written consents in the California court for another tribunal to assume continuing jurisdiction over the Judgment. She argued that the California court retained continuing exclusive jurisdiction to modify the Judgment's child support order.

In December of 2019, the father filed a notice of registration of out-of-state support order, attaching the Agency's September 2019 order. Four days later, his Australian attorney submitted a declaration reporting that the mother had submitted an application to end the Australian child support assessment, which the Agency had accepted. At the hearing, the family court ruled that it had retained jurisdiction to make child support orders in this case. The court reasoned that while the Judgment did not provide for child support to be paid beyond March 2012, the document specified that further proceedings regarding child support would be by agreement of the parties or as ordered by a court of appropriate jurisdiction. The Judgment also provided that if the mother were to file a motion to modify child support prior to March 2012, then support could be determined by an Australian court. However, she never sought modification during that time period. Accordingly, the court found that it continued to have jurisdiction over the issue of child support under the terms of the Judgment. The court also concluded that jurisdiction was proper under the UIFSA because the father continued to reside in California.

The father appealed, asserting that Australia was the “court of appropriate jurisdiction” under the Judgment with respect to child support. He further contended that the California courts lacked jurisdiction under the UIFSA. Australia is a foreign reciprocating country for purposes of child support. It was undisputed that the father resided in California. The issue was whether the parties had validly consented to transfer jurisdiction to Australia, and/or whether the Judgment is the “controlling order.”

The father asserted that the Judgment was not the controlling order because it conferred Australia with jurisdiction over continuing child support, noting that under the terms of the Judgment, had the mother filed an application to modify child support at any time during the five-year period ending on February 28, 2012, future support would have been “determined in a court of

competent jurisdiction in Australia or under Australian law." He claimed it would be "illogical" to assert that Australian law would no longer apply if she were to seek modification any time after February 28, 2012. He reasoned that the parties intended for the term "a court with 'appropriate jurisdiction' " to mean a court in Australia, not California. The Court of Appeal disagreed, stating that if the parties had intended for future child support orders to be made in Australia, they could have specifically identified that jurisdiction in the Judgment.
Under the UIFSA the issuing state retains exclusive jurisdiction "only for as long as at least one of the parties—the obligor, the obligee, or the child—resides in the issuing state." The issuing state loses jurisdiction over child support if: (1) all relevant parties have permanently left the issuing state, or (2) the relevant parties expressly consent to allow another state to assume exclusive jurisdiction. The record did not contain any court filing documenting the mother's express consent to transfer the matter to an Australian tribunal. Accordingly, because the parties did not consent to remove child support proceedings to Australia, and because the father had continuously resided in California, the family court continued to retain jurisdiction over his child support obligations.

The father then asserted that the September 2019 Agency order was the controlling and enforceable order, not the Judgment. He relied on UIFSA Family Code section 5700.207, which addresses enforceability in cases involving multiple support orders emanating from different jurisdictions. The statute provides that if more than one order exists, "[i]f only one of the tribunals would have continuing, exclusive jurisdiction under this part, the order of that tribunal controls." California had retained continuing, exclusive jurisdiction over the Judgment and therefore it was the controlling order.

**Velazquez Acosta v. Larriuz Rivera, 2022 WL 472700 (Puerto Rico Ct. App.) The parties had two daughters, one born in 2002 in Puerto Rico and one in 2003 in Connecticut. By the end of 2003, the parties separated and the mother returned with the daughters to live in Puerto Rico. In May 2005, the mother submitted a request for child support and Puerto Rico referred the case to CT where the parties had resided together. CT then located the father's new whereabouts in FL and referred the case there. FL established an order of support for the children. Ten years later, the mother received a notice from FL and was informed that she would no longer be receiving support for her eldest daughter, turning 18, pursuant to the laws of FL. The mother then filed for an increase in support in Puerto Rico and was denied, as Puerto Rico noted they had no jurisdiction. The mother appealed.

Puerto Rico adopted the UIFSA in 1997. Based upon the provisions of the UIFSA, the Puerto Rico Court of Appeals concluded that the trial court erred in declaring itself without jurisdiction, as it was not evident from the record that FL had continuing exclusive jurisdiction.

The Court held that Puerto Rico must evaluate its own jurisdiction over the matter under the UIFSA as both the mother and children had lived in Puerto Rico since shortly after they were born, and that, under Puerto Rico laws, the children had not reached the age of majority.
In view of the above, the decision appealed against is revoked and the case is returned to ASUMI for the proper disposition of the mother's request. The matter was remanded to the trial court.