

Who Wants to be a WICSEC / UIFSA Millionaire!

Ryan Morrow – Texas

Jim Fleming – North Dakota





Rules

- This is a scenario based, group game show, there are no individual contestants.
- The goal is to discuss each scenario.
- Scenarios will get increasingly more complex.
- The game is for points, not money.
- Points do not equal money.
- There is no money.
- We work for the government; we have no money.



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CP has three children with her ex-husband NCP. NCP was ordered to pay CP \$2,000.00 per month in current child support by a court in Los Angeles County, California. After the divorce, CP and the children move back to her hometown of Smyrna, GA. The NCP moves to New York City. GA sends petition to NY to enforce the CA order. NY sends an income withholding order to NCP's employer. Can NY do this?



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- Section 507 of UIFSA allows for a responding State to utilize all administrative enforcement remedies without first registering the support order.
- If the obligor contests enforcement, the Responding State must register the support order.



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In 2014, a Michigan court enters an agreed paternity. Obligee and child still reside in Michigan and the Obligor lives in Arizona. Arizona receives a request from Michigan's IV-D agency to register, enforce, and modify. Is this allowed?



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UIFSA Section 205. Continuing, Exclusive Jurisdiction to Modify Child-Support Order

(a) A tribunal of this state that has issued a child-support order consistent with the law of this state has and shall exercise continuing, exclusive jurisdiction to modify its child-support order if the order is the controlling order and:

- (1) at the time of the filing of a request for modification this state is the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or
- (2) even if this state is not the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of this state may continue to exercise jurisdiction to modify its order.

UIFSA Section 206 – Continuing Jurisdiction to Enforce Child-Support Order

(a) A tribunal of this state that has issued a child-support order consistent with the law of this state may serve as an initiating tribunal to request a tribunal of another state to enforce ...

(b) A tribunal of this state having continuing jurisdiction over a support order may act as a responding tribunal to enforce the order.



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Back Home Again in Indiana

Obligee, Obligor, and child (who was conceived in Indiana) live together in Indiana for five years. Parties separate. Obligor moves to California. Obligee and child move separately to California. Parties get divorced and support set in California. Obligee and child move back to Indiana. Obligee asks Indiana to modify.



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Everyone Lives in the Same State

- UIFSA Section 613

Everyone Leaves (Play Away)

- UIFSA Section 611

Everyone Agrees

- UIFSA Section 215(a)(2)

Multiple Orders and Everyone Leaves

- UIFSA Section 207(c)

One Party Outside the Country

- UIFSA Section 611 (f)

Foreign Country: Lacks or Refuses Jurisdiction

- UIFSA Section 615

Hague Convention Order

- UIFSA Section 711



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You Can't Divorce Me Cause I'm Divorcing You!

Obligor, Obligee, and child resided together in Nevada. The family moves to New Jersey. Obligor files for divorce in New Jersey. Upon getting served in New Jersey, Obligee and child move back to Nevada. Obligee files for divorce in Nevada and serves Obligor in New Jersey. Nevada issues a divorce decree with support.



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UIFSA Section 201
Bases for
Jurisdiction over
Nonresident

- (a) In a proceeding to establish or enforce a support order or to determine parentage of a child, a tribunal of this state may exercise personal jurisdiction over a nonresident individual if:
- (3) the individual resided with the child in this state;
 - (4) the individual resided in this state and provided prenatal expenses or support for the child;
 - (6) the individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;

UIFSA 204
Simultaneous
Proceedings

- (b) A tribunal of this state may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state or a foreign country if:
- (2) the contesting party timely challenges the exercise of jurisdiction in this state; and
 - (3) if relevant, the other state or foreign country is the home state of the child.



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UIFSA – UCCJEA, Tomato - Tamato

Parties were happily married in 2012 and happily divorced in 2019 in Missouri. Dad was ordered to pay support to Mom and parenting time was set up with Mom having custody. Mom moves to Ohio with the child. Dad moves to Montana. Dad hires an attorney in Ohio to address parenting time issues. Mom requests IV-D assistance in modifying order. Ohio sends a transmittal to modify the MO order. Upon contact with Dad, he indicates he wants to deal with Ohio on all issues. He indicates his attorney has been in contact with Ohio to modify support. He also includes a letter he sent to mother indicating his client would submit to the jurisdiction. You contact Ohio, Ohio wants support modified.



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The Official Comment to Section 611 discusses the "UIFSA Relationship to UCCJEA."

The major difference between the two acts is that the basic jurisdictional nexus of each is founded on different considerations. UIFSA has its focus on the personal jurisdiction necessary to bind the obligor to payment of a child-support order. UCCJEA places its focus on the factual circumstances of the child, primarily the 'home state' of the child; personal jurisdiction to bind a party to the custody decree is not required.



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Brotherly Love

Texas divorce decree for Mom to pay Dad. Dad and child move to Georgia, Mom remains in Texas. Child turns 18 and moves in with adult brother in Pennsylvania. Pennsylvania gets a default order for Mom to pay Adult Brother until Child is 21 years old. Pennsylvania sends a wage withholding to Mom's employer in Texas. Texas is already withholding from the divorce.



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UIFSA Section
401
Establishment
of a Support
Order

(a) If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this state with personal jurisdiction over the parties may issue a support order if:

(1) the individual seeking the order resides outside this state;

UIFSA Section
611
Modification of
Child Support
Order of
Another State

A tribunal of this state may modify a child support order issued in another state that is registered in this state if, after notice and hearing, the tribunal finds that:

(1) the following requirements are met:

(A) the child, the obligee who is an individual, and the obligor do not reside in the issuing state;

(B) a petitioner who is a nonresident of this state seeks modification; and

(C) the respondent is subject to the personal jurisdiction of the tribunal of this state; or



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CEJ All the Way

Husband and Wife are divorced in Wyoming. The divorce decree did not set child support or discuss any children. Husband moves to New Mexico. IV-D Agency in Wyoming requests New Mexico establish support. Husband files a plea to the jurisdiction, claiming CEJ is in Wyoming.



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UIFSA Section 401 – Establishment of Support Order

(a) If a support order entitled to recognition under this act has not been issued, a responding tribunal of this state with personal jurisdiction over the parties may issue a support order if:

- (1) the individual seeking the order resides in another outside this state; or
- (2) the support enforcement agency seeking the order is located in another outside this state.



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Consenting Adults

Mom and Dad are divorced in New York. Child resides in New York with Dad. Mom moves to California. Child decides she wants to live with Mom in California. Dad agrees to let Child live with Mom. California modifies the New York order based on Dad consenting to let Child live in California.



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

The Supreme Court, Mr. Justice Marshall, held that: (1) acquiescence of divorced father who was a New York resident in his daughter's desire to live with her mother in California did not confer jurisdiction over divorced father in California courts in divorced mother's action to establish foreign judgment of divorce and to modify such judgment so as to award her child custody; (2) divorced father did not derive financial benefit as a result of his acquiescence in his daughter's desire to live in California with her mother so as to warrant California court's exercise of in personam jurisdiction over divorced father, and (3) basic considerations of fairness pointed decisively to New York as proper forum for adjudication of divorced mother's action to establish foreign judgment of divorce.



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Hometown Hero

Child support order in Texas. Dad moves back home to Louisiana. Mom closes her full-service case in Texas. Dad files a confirmation of arrears and modification in Louisiana. Louisiana defaults Mom, issues payment and possession credits and modifies support to zero.



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UIFSA Section 611 - Modification of Child-Support Order of Another State

(a) ... a tribunal of this state may modify a child-support order issued in another state which is registered in this state if, after notice and hearing, the tribunal finds that:

(1) the following requirements are met:

(A) neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing state;

(B) a [petitioner] who is a nonresident of this state seeks modification; and

(C) the [respondent] is subject to the personal jurisdiction of the tribunal of this state; or

(2) this state is the State of residence of the child, or a party who is an individual is subject to the personal jurisdiction of the tribunal of this state, and all of the parties who are individuals have filed consents in a record in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction.



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It's a Matter of Process

Parties have a divorce order from Alaska setting support. NCP moves to Texas. Parties consent to modification in Texas. Parties with attorneys negotiate modification along with judgment on arrears. A hearing is held regarding payment toward arrears. NCP disagrees with court and appeals claiming the Alaska order was never registered.



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UIFSA 602 - Registration

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)



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You Can't Go Home Again

CP (mom) and NCP (dad) have a custody and support order out of Hawaii for three children. NCP (dad) moved to Texas. CP (mom) moved to Colorado with the children. A few months later, all three children went to live with NCP (dad) in Texas. NCP (dad) registered the HI order pursuant to the UCCJEA and filed a subsequent modification alleging the children are in Texas due to the acts and directives of the CP (mom), asking for custody, and support. CP (mom) was served in Hawaii while at her mother's house. Dad got a default order giving him custody and setting support against mom.



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The major difference between the two acts is that the basic jurisdictional nexus of each is founded on different considerations. UIFSA has its focus on the personal jurisdiction necessary to bind the obligor to payment of a child-support order. UCCJEA places its focus on the factual circumstances of the child, primarily the 'home state' of the child; personal jurisdiction to bind a party to the custody decree is not required.

The Official Comment to Section 611 discusses the "UIFSA Relationship to UCCJEA."

UIFSA 201 Bases
for Jurisdiction
over Nonresident

(b) The bases of personal jurisdiction listed in Subsection (a) or in any other law of this state may not be used to acquire personal jurisdiction for a tribunal of this state to modify a child support order of another state



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Service, We Don't Need No Stinking Service

Mom files a divorce in Indiana. During the pendency of the action, Mom and children move to Ohio. Indiana trial court grants divorce and orders support to Mom. Mom requests IV-D services in Ohio and, as a result, Indiana forwards payments to Ohio. A year later, Dad requests a modification and Indiana files a motion to modify. A hearing is set, and pleadings and notices are sent to Dad and the State. State and Dad appear at a hearing and announce there is an agreement. Arrears are determined, oldest child has lived with father for 2 years, Dad will pay \$75 per week for the remaining 2 children on order and Mom will pay \$175 a week to Dad for the oldest child. There is no indication that the order or agreement was sent to Mom. Two years later Mom finds out about the order. Mom files a motion to set aside and testifies she never received a copy of the petition to modify. She testifies she never received anything from the State of Ohio or Indiana regarding a petition, court date or order.



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Sigman v. Sigman
131 N.E. 3d 215
(2019)
Unpublished

- Trial court denied Mom's motion to set aside the Agreed Order.
- Indiana's IV-D Attorney testified: (1) "[a]ll the court process was followed [in Indiana] in notifying Ohio of everything that was going on"; (2) she did not know what address Ohio officials used for Mother; (3) Ohio officials produced no records of their efforts to notify Mother; (4) Ohio officials did not notify [IV-D Attorney] that Mother's mail was being returned, as is the typical protocol, (5) [IV-D Attorney] cannot refute Mother's claim that Mother did not receive notice of the Petition, the hearing, and the Agreed Order; and (6) [IV-D Attorney] "do[es]n't know what happened here with Ohio."
- The Court of Appeals of Indiana reversed and remanded.
- "We fail to understand the numerous procedural errors; the trial court's justification for proceeding ex parte with a hearing to modify support; the trial court's apparent acceptance of [IV-D Attorney] statement that Indiana was not responsible for providing notice to Mother; and Indiana officials' casual assumption that Ohio must have provided notice to Mother, despite lack of proof that Indiana ever sent the Petition, notice of the hearing, or the Agreed Order to Ohio, or proof that Ohio officials had forwarded.



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You are the
WICSEC / UIFSA
Millionaire!



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