**Boots on the Ground**

**UIFSA**

23rd Annual AB 1058 Child Support Training Conference August 27–30, 2019

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**Boots on the Ground**

**UIFSA**

- Where to Begin?
- What Forms do I need?
- Whose law applies?
- Specific Issues you may see.

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**Boots on the Ground**

**UIFSA**

- Where to Begin?
- History
- Structure
- Main Concepts
- Terminology
Boots on the Ground UIFSA

- What Forms do I need?
  - Federal (OCSE)
  - State (Judicial Council)
    - Proposed new forms
- Whose law applies?

Boots on the Ground UIFSA

- Specific Issues you may see:
  - Evidentiary
  - Establishment
  - Enforcement

UIFSA – A History

- URESA (Uniform Reciprocal Enforcement of Support Act)
- R-URES A (Revised URESA)
- FFCCSOA (Full Faith and Credit for Child Support Orders Act)
UIFSA – A History

- UIFSA (Uniform Interstate Enforcement of Support Act)
  - 1996 – a PRWORA mandate
  - 2001 – enacted conditionally
  - 2008 – current version

UIFSA Structure

- Article I – General Provisions
- Article II – Jurisdiction
- Article III – Civil Provisions of General Application
- Article IV – Establishment of Support Order or Determination of Parentage
- Article V – Enforcement of Support Order without Registration
- Article VI – Registration, Enforcement & Modification of Support Order
- Article VII – Support Proceedings Under Convention
- Article VIII – Interstate Rendition
- Article IX – Miscellaneous Provisions

UIFSA Concepts

- Only one state with jurisdiction at any time – CEJ
- Only one enforceable order
  - Determination of Controlling Order
  - Determination of Arrears
UIFSA – Where to Begin?

• Jurisdiction
  - Establishment
  - Enforcement
  - Modification

UIFSA – Where to Begin?

• Jurisdiction – Establishment or Enforcement
  - Personal Service in CA
  - Consent
  - Resided with child in CA
  - Child resides in CA based on acts or directive of individual
  - Sexual intercourse in CA and child could have been conceived by that act
  - Declaration of Paternity (Parentage) in CA
  - Any other basis consistent with constitutional bases for personal jurisdiction [Kulko v. Superior Court of CA (1978) 436 U.S. 84]

UIFSA – Where to Begin?

• Jurisdiction – Modification
  - A state may register and modify another state’s order when:
    - All parties no longer reside in the issuing state
    - Non-requesting party resides in the modifying state
    - The state modifying the order has personal jurisdiction over the non-requesting party
**UIFSA – Where to Begin?**

- **Jurisdiction – Modification**
  (Exceptions to general rule)
  - A state may register and modify another state’s order when:
  - The parties consent on the record (or in a writing filed with the issuing state’s tribunal), regardless of where the parties reside
  - One party resides in the U.S. and the other party resides outside the U.S.

**Hypothetical – You Decide**

- Washington Order registered in CA without contest
- Custodial Parent and child live in CA, Noncustodial Parent lives in Arizona
- Custodial Parent seeks modification in CA.

Does CA have Jurisdiction to Modify?

**Terminology**

- Obligor/Creditor
- “State” – capitalized or not?
  - Initiating
  - Responding
  - Issuing
Forms - OCSE

• 13 different forms*
• Find at:
  www.acf.hhs.gov/css/resource/uifsa-intergovernmental-child-support-enforcement-forms

*Selected forms are in your materials

What Forms do I need?

• To REGISTER an out of state order:
  • Transmittal #1 – initial request
  • Letter of Transmittal Requesting Registration
  • A IV-D agency must also complete (but not file) a Child Support Agency Confidential Information

T-#1 – Initial Request

2 pages of form, 5 pages of instructions.

The section gives basic information about the case.

Sections I: Tell the tribunal what you are seeking to accomplish (i.e., what steps or actions in detail)
T-#1 – Initial Request (continued)

Section II deals with the background information on the court order. You must discuss what arrearages, if any exist and how it was computed.

Section III and IV provides information about the parties to the case.

Letter of Transmittal Requesting Registration
Contains information on:
- What the court is being asked to do
- What the current support orders are
- Where orders are registered
- Who the participants are
- Identifies
- Attachments
- Signed under penalty of perjury

What Forms do I need?

- If I also want to MODIFY or ESTABLISH SUPPORT:
  - Uniform Support Petition
  - Personal Information Form (§311)
  - General Testimony
Uniform Support Petition

We'll look at this a section at a time.

The first section asks the name of the Petitioner/Respondent and asks that you identify them as the Obligee or Obligor.

If it is a IV-D case you must also identify the type of case.

Finally, it asks you to tell them if there is a Non Disclosure OR if you sent the documents through EDE.
General Testimony

Ten pages –
The caption should feel familiar by now.
Seeks physical description, tax filing status, occupation, gender and other children the obligor is financially responsible for.

General Testimony

Section X lists all the types of documents that may be attached and incorporated by reference.

Personal Information

For UIFSA §311
Confidentiality

To Disclose

• UIFSA § 311
  - Regulates what must be in the pleadings
    - Name
    - Residential Address
    - SSN
    - Child’s sex
    - Child’s DOB
    - Child’s SSN
    - Child’s address

Family Code § 5700.311

• In proceedings for support, determine parentage, or modify support order from another jurisdiction a Petition is required.
• Unless § 5700.312 nondisclosure applies you must provide specified personal information.
• Petition must have copies of any support order known to have been issued by another tribunal.

Confidentiality

To Disclose

• UIFSA § 311
  - Regulates what must be in the pleadings
    - Name
    - Residential Address
    - SSN
    - Child’s sex
    - Child’s DOB
    - Child’s SSN
    - Child’s address

Or Not?

• UIFSA § 312 - Nondisclosure
• Family Code § 17212 – Confidentiality of IV-D records
• Rules of Court prohibiting filing of SSN/TITNs

WHERE OR HOW DOES YOUR COUNTY:

A. File the form
B. Hold hearings for Non-Disclosure
1. At what stage in the proceeding?
2. Notice required?
Forms – Judicial Council

Find these on the Judicial Council Website at:
www.courts.ca.gov/forms.htm

Under the drop down category: Family Law
Interstate Actions

Notice of Registration of Out of State Court Order
FL-570

Notice of Registration of Out of State Court Order
FL-570

Notice of Registration of Out of State Court Order
FL-570
Recap – Registration Package

**Enforcement**
- Letter of Transmittal Requesting Registration
- Order to be registered (2 copies, 1 certified) and any modification of the order
- Sworn statement re: arrearages

**Modification**
- All of the documents required under Enforcement
- Plus:
  - Uniform Support Petition
  - PII §311
  - General Testimony

Proposed Form Revision

**FL – 570 Notice of Registration of Out-of-State Support Order**

**Proposed Form Revision**

**Request for Hearing re: Registration of Out-of-State Support Order FL – 575**
What about In State Orders?

- Not governed under UIFSA
- Used to enforce or modify an existing California order
- May be filed by an Obligee or the LCSA
- Contest – Motion to Vacate Registration §5603

Forms:
- Statement for Registration of California Support Order (ROCO) FL-650
- Notice of Registration of California Support Order (FL-651)

Forms – Judicial Council

Find these on the Judicial Council Website at: www.courts.ca.gov/forms.htm

Under the drop down category: Family Law – Governmental Child Support

Proposed New Form

- FL – 445 Request for Hearing re: Registration of CA Support Order

NOTICE OF HEARINGS
A hearing on this application will be held on the day following the filing date. The hearing will be at the Superior Court of California, County of Los Angeles, at 1000 N. Hill Street, Los Angeles, CA 90012.

REQUEST FOR HEARING REGARDING REGISTRATION OF CALIFORNIA SUPPORT ORDER

I/We, the undersigned, hereby request that a hearing be set on this application for registration of a California support order. The ear date of the order being registered is _______.

I/We hereby certify that the information and documents submitted herewith are true and correct to the best of my/our knowledge.

I/We further certify that all other applicable forms and documents required by law have been submitted with this application.

I/We hereby request that the following court orders be vacated and/or modified:

[Insert information about the court orders]

I/We hereby request that the following court orders be vacated and/or modified:

[Insert information about the court orders]

I/We hereby request that the following court orders be vacated and/or modified:

[Insert information about the court orders]

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[Insert information about the court orders]

I/We hereby request that the following court orders be vacated and/or modified:

[Insert information about the court orders]

I/We hereby request that the following court orders be vacated and/or modified:

[Insert information about the court orders]
Contests to Registration
- **Grounds:**
  - Lack of Personal Jurisdiction
  - Order obtained by fraud
  - Order has been vacated, suspended or modified by later order
  - Stayed pending appeal by Issuing tribunal
  - State law defense (CA)
  - Full or partial payment has been made
  - Statute of Limitations
  - Not the Controlling Order (if so alleged)

Contests to Registration
- **Timing:**
  - Within 20 days after Notice of Registration
- **Burden of Proof:**
  - On the contesting party
- **Judicial Options:**
  - Determine which of the orders is the controlling one
  - Stay enforcement of registered order
    - In Full
    - In Part
    - Continue for further evidence

Who’s Law Applies?
- **Issuing State:**
  - Nature, Extent, Duration of current payments
  - Computation of arrearages and accrual of interest on arrears
  - Existence and satisfaction of other obligations under the support order.
Who’s Law Applies?
- Responding State
- Procedures
- Remedies
- Both
  - Statute of Limitations – whichever is longer
  - Controlling Order – Issuing State

Who’s Law Applies?
- Modifications
  - Non modifiable items – Issuing State
    - Duration of support obligation
  - Modifiable items
    - Before modification – Issuing State
    - After modification – Responding State

Hypothetical – You Decide
- Washington Order registered in CA without contest
- Custodial Parent and child live in CA, Noncustodial Parent lives in Arizona
- Non-Custodial Parent seeks modification in CA.
Hypothetical – You Decide

- What interest rate is charged on the arrearages? WA or CA?
- Emancipation: Under whose law do we decide?
  - A. Birthplace of child
  - B. Issuing State
  - C. Modification State
  - D. State with CEJ

UIFSA Structure

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Hague Convention

- History
- Main Concepts/Scope
- Terminology
- Recognition and Enforcement
Hague Convention—History
International Recovery of Child Support and Other Forms of Maintenance “Hague Child Support Convention”

- Negotiations 2003-2007
- Ratified by the US 8/30/2016; Effective 1/1/2017
- 41 Countries have ratified

Hague Main Concepts/Scope

- Establish, Enforce or Modify
  - Child Support until age 21
  - Spousal Support
    - In combination with Child Support

Hague Main Concepts/Scope

- Central Authority
  - Point of Contact for Contracting States
  - Cooperate with each other
    - Achieve purposes of the Convention
    - Seek solutions in applying the Convention
Hague - Terminology

• “Foreign Country”
  - Foreign Reciprocating Countries
  - State Reciprocal Agreements
  - Countries with laws substantially similar to UIFSA
  - Hague Child Support Convention Country
  - “Contracting State”
• “Outside this State”

Hague - Terminology

<table>
<thead>
<tr>
<th>Convention Term</th>
<th>US Equivalent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Creditor</td>
<td>Obligee</td>
</tr>
<tr>
<td>Debtor</td>
<td>Obligor</td>
</tr>
<tr>
<td>State</td>
<td>Country</td>
</tr>
<tr>
<td>Maintenance</td>
<td>Support</td>
</tr>
<tr>
<td>Requesting State</td>
<td>Initiating State</td>
</tr>
<tr>
<td>Requested State</td>
<td>Responding State</td>
</tr>
<tr>
<td>R&amp;E of Decision</td>
<td>R&amp;E of Registered Order</td>
</tr>
<tr>
<td>Maintenance Arrangement</td>
<td>Foreign Support Agreement</td>
</tr>
<tr>
<td></td>
<td>R&amp;E = Recognition &amp; Enforcement</td>
</tr>
</tbody>
</table>

Application for Recognition and Enforcement

• Central Authority
  - Acknowledges receipt within 10 days
  - Identify any needed information
  - Lack of all documents is not grounds to refuse to process
  - Must process to the extent possible
Central Authority Responsibilities

- Keep each other informed
  - Person/Unit Responsible for Case
  - Progress of Case
- Timely respond to inquiries
- Process as quickly as possible
- Employ rapid/efficient means of communication available to them

Central Authority Responsibilities

- Legal Assistance, where needed
- Debtor/Creditor
  - Location
  - Financial Information
- Ongoing Enforcement
- Collection/Transfer of Payments
- Obtaining Documentary Evidence
- Obtain Provisional orders
- Service of Documents

Types of Applications

By Creditor/Obligee
- Establishment
- Recognition / Enforcement of Foreign Decision
- Recognition of Decision made or Recognized in a Requested State
- Modification of Decision

By Debtor/Obligor
- Recognition of a Foreign Decision leading to the suspension or limiting enforcement of a previous decision in the requested State
- Modification of a Decision
French Order
Applicant – Creditor lives in Switzerland

YOU BE THE JUDGE

Hague - Terminology
- Direct Application
- Direct Request

Hague - Forms
Find these at:
https://www.acf.hhs.gov/css/resource/hague-child-support-convention-forms
Recognition and Enforcement - FORMS

- Two Mandatory
- Transmittal
- Application
- 12 Recommended

Incoming Application for Recognition & Enforcement

<table>
<thead>
<tr>
<th>Required by UIFSA 706 (FC 5700.706)</th>
<th>When Used</th>
<th>Form/Document</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transmittal</td>
<td>Always</td>
<td>Convention Transmittal</td>
</tr>
<tr>
<td>Application</td>
<td>Always</td>
<td>Convention Application</td>
</tr>
<tr>
<td>Complete Text of Order</td>
<td>If Risk of Harm</td>
<td>Convention Restriction Information on the Applicant</td>
</tr>
<tr>
<td>Statement of Enforceability</td>
<td>Always, unless your state allows an abstract or extract of order</td>
<td>Order itself, or Convention Abstract, if acceptable</td>
</tr>
</tbody>
</table>

Incoming Application for Recognition & Enforcement

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<tbody>
<tr>
<td>Record attesting to Notice &amp; opportunity to be heard</td>
<td>Always if Respondent did not appear and was not represented</td>
<td>Convention Statement of Proper Notice</td>
</tr>
<tr>
<td>Record of Arrears</td>
<td>Always, if there are any</td>
<td>Domestic document showing amount and date calculated</td>
</tr>
<tr>
<td>Information about Obligor</td>
<td>Always (for applications by creditors)</td>
<td>Convention Financial Circumstances Form</td>
</tr>
<tr>
<td>Record showing requirement for auto adjustment and explaining how to adjust or index support amount</td>
<td>Always, if order provides for automatic adjustment or indexation</td>
<td>Domestic document</td>
</tr>
</tbody>
</table>

When Used Form/Document

- Record attesting to Notice & opportunity to be heard
- Convention Statement of Proper Notice
- Domestic document showing amount and date calculated
- Convention Financial Circumstances Form
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Transmittal – Required Document

- Identifies the Requesting and Requested Central Authority
- Identifies the Creditor and Debtor
- Identifies the Article number(s) the application falls into
- Identifies the attachments

Application – for Recognition and Enforcement

All Convention applications have a privacy notice.

Application – for Recognition and Enforcement

Bases for Recognition & Enforcement

Attestation
Statement of Enforceability

Financial Circumstances

• Provides information on the finances of the relevant parties
• Only need information on Debtor in Recognition/Enforcement proceedings
• Form is not signed

Registering Tribunal

• Registration/filing of Convention Order
• Tribunal Review
  • May vacate ONLY if order would be "manifestly incompatible" with public policy
• Notice of Registration or Order Vacating Registration
• Effect of Registration
• Resolution of challenge by Respondent
Hague - Defenses to Registration

- Manifestly Incompatible
- Lack of Personal Jurisdiction
- Order not enforceable in issuing country
- Order obtained by procedural fraud
- Lack of authenticity/integrity
- Pending proceeding filed first

Evidence

- Electronic Transmission Permitted
- Nonresident witness/party MUST be able to testify by telephonic, audiovisual or other electronic means
- “Penalty of Perjury” replaces under oath

Evidence

- Tribunal may communicate:
  - With a tribunal outside this state regarding:
    - Laws
    - Legal effect of tribunal’s order
    - Status of a proceeding
Evidence

- California tribunal may request:
  - From a tribunal outside this state
  - Assistance with Discovery
  - Assistance to compel responses to discovery (even if propounded by tribunal outside this state)
  - Other tribunal must have PI over person to do so

Intergovernmental Issues

- Evidence
  - Electronically filed documents
- Establishment
- Parentage
- Enforcement
  - Percentage Orders

Resources - Hague

- https://www.acf.hhs.gov/css/partners/international
  - Convention Text
  - Explanatory Report
  - Country Profiles
  - Handbook for Caseworkers
  - 2018 Child Support Judicial Guide
Resource Material

- Citations & Links  (pp 2, 3)
- Copy of most of the forms we have discussed
- US Country Profile – Hague (pp. 38-128)
- UIFSA Conversion Chart  (p. 5)
- Differences between Convention and Non-Convention Orders  (pg. 37)

Thank you for sharing your time today.
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