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Lawrence S. Katz is a Fellow in The International Academy of Matrimonial Lawyers (IAML)[1]. He focuses his practice on family law, complex jurisdictional issues, interstate and international family law as well as child abduction. He has practiced law for over four decades.

He has been counsel of record, mentored or consulted in over 250 Hague Convention and child abduction cases. Mr. Katz was the first and in the majority of cases, the only U.S. attorney to recover children from: Turkey, (non-Hague) Iran, Saudi Arabia and Japan (using "Special Family Circumstances") as well as to return children to Haiti, Jamaica, the Bahamas and Russia. Mr. Katz also conducted the first mediation in a Hague case in a pilot program for NCMEC and the U.S. Dept of State in November 2005. He continues to mediate.

Mr. Katz has lectured and published on international relocation. In 2008, he successfully represented 3 clients in international relocation cases and served as a Guardian ad Litem in a fourth case where he was responsible for drafting the relevant portions of the agreement and final decree with respect to relocation, jurisdiction and enforcement. The 4 mothers were authorized to relocate with their young children to: Germany, Belgium and Israel. In 2009, he represented mothers who were authorized to relocate with their children to the United Kingdom and France. In 2010-11 and again in 2012, he represented a Foreign Service Officer of the U.S. Dept. of State who was permitted to relocate with her child to France. He frequently represents clients in interstate relocation cases. In 2012 he testified as an expert and prepared provisions of the final judgment (7 pages) permitting a mother to relocate to Argentina with her two minor children.

Mr. Katz has testified on numerous occasions as an expert witness in international matters especially concerning the Hague Abduction Convention, relocation, abduction factors/profiles, drafting and enforcement of court orders In July 2013, he was an expert that prevented vacation travel of children to Brazil and Japan. He has been requested by various courts to do so. In addition, he serves as co-counsel, drafter of provisions of agreements, court orders, judgments or consultant in international abduction cases, preventive measures, travel, relocation, and complex jurisdictional matters.

[1] "The IAML is a worldwide association of practicing lawyers who are recognized by their peers as the most experienced and expert family law specialists in their respective countries" www.iaml.org

EDUCATION

J.D., University of Miami, 1968 Phi Alpha Delta
Law Fraternity

B.B.A., University of Miami 1965
Phi Epsilon Pi Fraternity, President

ADMISSIONS

Mr. Katz was admitted to the Florida Bar in 1968 and to the Florida Supreme Court, U.S. District Court, Southern District of Florida and the U.S. Court of Appeals, 5th Circuit; 1971, U.S. Supreme Court; 1980, U.S. District Court, Middle District of Florida; 1981, U.S. Court of Appeals, 11th Circuit; and, 1996, U.S Court of Appeals 3rd Circuit.

ACTIVITIES AND LECTURES

Lecturer, "Records and the Abducted Child," Children's Records Law in Florida, 1999, 2000, 2001.

Lecturer, Twelfth Annual Nuts and Bolts of Divorce, DCBA Family Courts Committee (2005). “Economic Injunctions/Freeze Orders Domestic and Foreign.”

Lecturer, “Abduction Factors and Fla. Stat. §61.45 as it Concerns International Visitation and Child Custody,” First Family American Inn of Court (2006).

Lecturer, Family Law Update 19th Judicial Circuit in St. Lucie County, Florida (2007), “Int'l Child Abduction: Returning Kids Home & Making the Abductor Pay Through Hague or UCCJEA."

Lecturer, “Cross-Border Family Mediation with an Emphasis on the 1980 Hague Convention on the Civil Aspects of International Child Abduction” sponsored by the University of Miami School of Law and the National Center for Missing and Exploited Children (NCMEC) (February 2008)

Participant, ICARA 15 Symposium. Office of Children’s Issues, Department of State, 2003.

Attended the Fifth meeting of the Special Commission to Review the Operation of the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction held at the Hague, Netherlands 2006.

Member of Study Group of the Secretary of State Advisory Committee of Private International Law considering the 1996 Hague Protection of Children Convention, 2007.

Lecturer, “From Ferreting to Fetching: How to Find, Freeze and Retrieve Marital Assets Hidden Abroad,” ABA Section of Family Law, 2009 Spring CLE Conference.

Lecturer, “Moving from Kansas to Oz: Competing Paradigms and Practical Issues in International Child Custody Relocation Cases,” Association of Family and Conciliation Courts (AFCC), 46th Annual Conference, May 2009.

Lecturer, “Transnational Families: Where International Law and Family Law Intersect,” 2009 Florida College of Advanced Judicial Studies.

Lecturer, “Mediating International Child Abduction Cases and Other High Conflict Cross-Border Custody Disputes,” ABA Section of International Law, 2009 Fall CLE Conference.

Lecturer, “Alternative to the Hague by Returning Kids Home and Making the Abductor Pay Through the UCCJEA”, U.S. Chapter of the IAML, 2011 Annual General Meeting.

Observer/attendee on behalf of IAML (NGO) at the Sixth meeting of the Special Commission to Review the Operation of the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction and the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforceability and Measures for the Protection of Children held at the Hague, Netherlands, June, 2011.

Lecturer, “Case Study: Application to Remove a Child From the Jurisdiction”, IAML, 2011 Annual General Meeting held at Harrogate, U.K., September 2011.

Lecturer, “1980 Hague Convention”, Lunch and Learn Seminar Sponsored by Family Court Services, October 2011.

Observer/attendee on behalf of IAML (NGO) at the Sixth meeting of the Special Commission to Review the Operation of the Hague Convention of 25 October 1980 on the Civil Aspects of International Child Abduction and the Hague Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforceability and Measures for the Protection of Children held at the Hague, Netherlands, January, 2012.

Lecturer, “Representing the Abducting Parent”, Japanese Symposium, IAML, U.S. Chapter held at Minneapolis, MN, June 2012.

Lecturer, “Enforcement of Mediated Agreements”, Japanese Symposium, IAML, U.S. Chapter held at Minneapolis, MN, June 2012.

Lecturer, “International Enforcement of Mediated Agreements: Properly Structuring Your Agreements for Enforcement Success.”, IAML, U.S. Chapter held at Minneapolis, MN, June 2012.

Lecturer, “Mediating Hague Abduction Cases.” Phoenix Symposium, IAML, U.S. Chapter, held at Carefree, AZ, February 2013.

Upcoming Lectures:

Lecturer, “International Relocation”, IAML Hague Symposium, held at Colegio Puplico de Abogados de Capital Federal, Buenos Aires, Argentina, September 2013.

Lecturer, “Domestic Violence and the Article 13(b), Grave Risk Defense”, IAML Annual Meeting held at Buenos Aires, Argentina, September 2013.

PUBLICATION

Author, “When the? Involves an International Move, The Answer May Lie in Retaining U.S. Jurisdiction,” ABA Section Family Law, Family Advocate Spring 2006.

AWARDS AND RECOGNITIONS

Super Lawyers 2010, 2011, 2012 and 2113 (Top Attorneys in Florida). Florida Trend, the State’s Legal Leaders. Florida Legal Elite 2009-2013. The First Family Law American Inns of Court Awards for Service (2008-10). Awards of Merit from the National Center for Missing and Exploited Children and the U.S Department of State Certificate of Appreciation for Extraordinary Assistance to Hague Convention Applicants. "AV" rated by Martindale Hubbell since 1976. Certificate of Recognition from ABA, Section of Family Law for Service as Chair of the International Law Committee. Listed in the Bar Register of Preeminent Lawyers.

Supreme Court Certified Family Mediator. Listed in "Who's Who in America, World and Law".

MEMBERSHIPS

Fellow, International Academy of Matrimonial Lawyers (IAML), Board of Managers and Chairman of Committee on Hague Conventions (2012-present): U.S. Chapter of the IAML, Delegate to IAML 2010-2013, Chairman of the Committee on Hague Conventions (2010-present) and member of the Admissions Committee (2010-present): First Family Law American Inn of Court, President (2009-10): American Bar Association: Family Law Section, International Law Committee, Chairman (2007-9) and Immediate Past Chairman (2009-2011), Domestic Violence Committee, Vice Chairman (2009-2011); International Law Section, Family Law Committee, member of Steering Committee; Florida Bar Association: former member; Continuing Legal Education, Children's Issues Committees, Legislation, Mental Health in Litigation, and Domestic Violence Committees; Mentor, International Child Abduction Attorney's Network (ICAAN) and the U.S. Department of State, Office of Children's Issues Attorney Network; Member, International Society of Family Law; and, Member, Association of Family and Conciliation Courts.

REPORTED FAMILY CASES

Hanley v. Roy, 485 F.3rd 641 (11th Cir. 2007) (return to Ireland and held that district court made a "mockery" of Convention refusing to order the return of children to grandparents/guardians).

Dallemagne v Dallemagne, 440 F. Supp. 2d 1283 (M.D. Fla. 2006) (return to France and provides an excellent analysis of burden of proof and defenses).

Angulo Garcia v. Fernandez Angarita, 440 F. Supp. 2d 1364 (S.D. Fla. 2006) (return to Colombia and held, in part, that consent to travel is invalid if procured by fraud).

Leslie v. Noble, 377 F.Supp. 2d 1232 (S.D. Fla. 2005) (held that father had rights of custody before, during and after paternity court proceedings in Belize).

In Re Cabrera, 323 F.Supp.2d 1303 (S.D. Fla. 2004) (return to Argentina the court found equitable tolling and held that a child should be returned rather than threatened with possible deportation).

In Re Arison-Dorsman, U.S. Dist. Lexis 9861, 32 Media L. Rep. 1699 (S.D. Fla. 2004) (return ordered to Israel: record should not be sealed).

Marcos v. Haecker, 915 So.2d 703 (Fla. 3rd DCA 2005) (international paternity case involving Spain, Mexico and Florida where a motion to quash service of process was affirmed on appeal).

Dyce v. Christie, 17 So.3rd 892 (Fla. 4th DCA 2009) (expedited enforcement of final decree from Jamaica, child abduction, collateral attack of foreign judgment and due process of law).

Abdo v. Ichai, 34 So.3rd 13 (Fla. 4th DCA 2010) (PCA affirmed order permitting mother to relocate to France, retaining habitual residence in the United States and transferring jurisdiction to California).

Sarpel v. Eflanli, 65 So.3rd 1080 (Fla. 4th DCA 2011) (Temporary absence and the establishment of "home state" subject matter jurisdiction pursuant to the U.C.C.J.E.A. and anti-suit injunction preventing the former wife from attempting to modify the final judgment from Florida and "mirror orders" entered in Turkey).

ABA SECTION OF FAMILY LAW

FAMILY ADVOCATE

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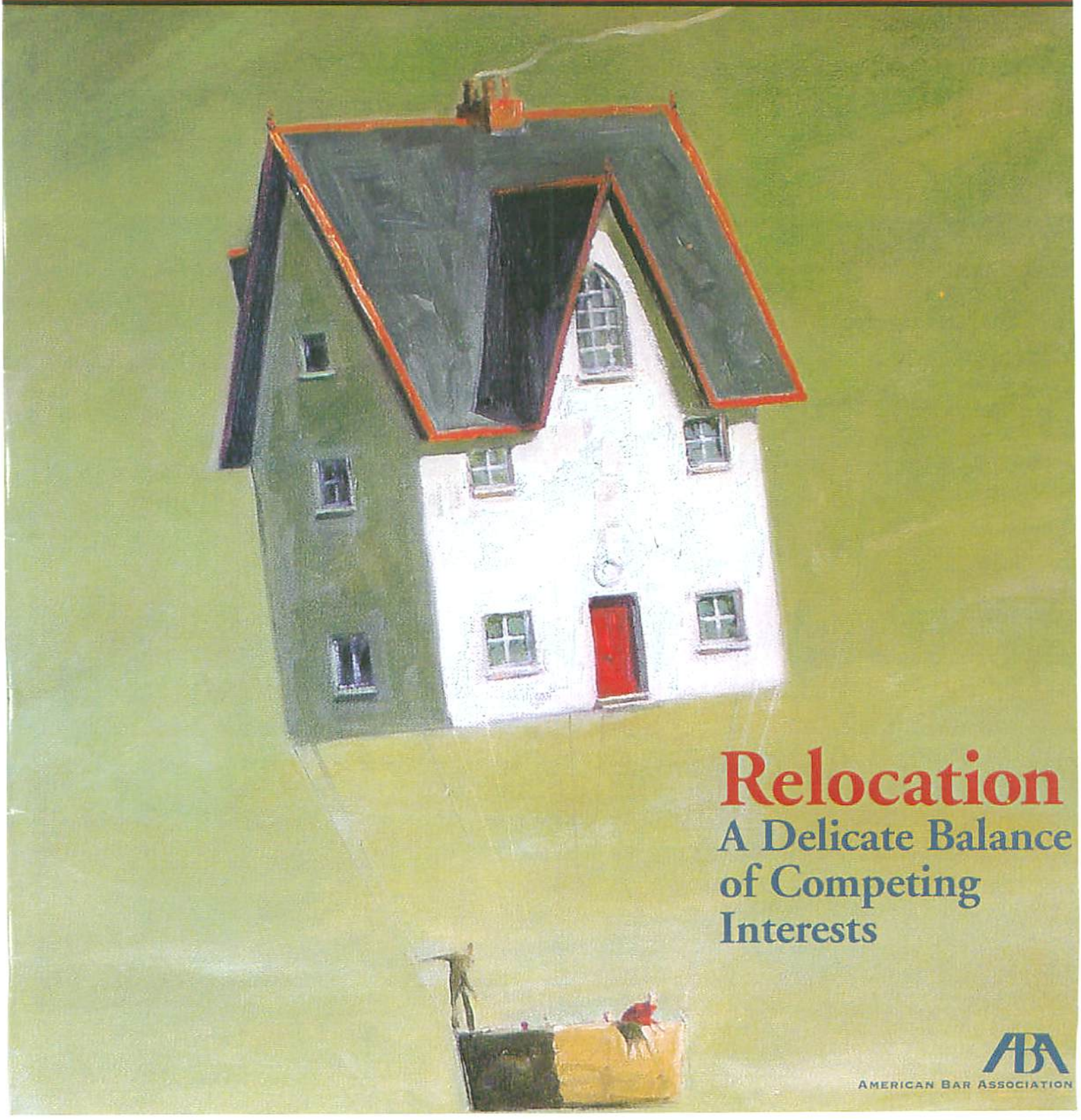
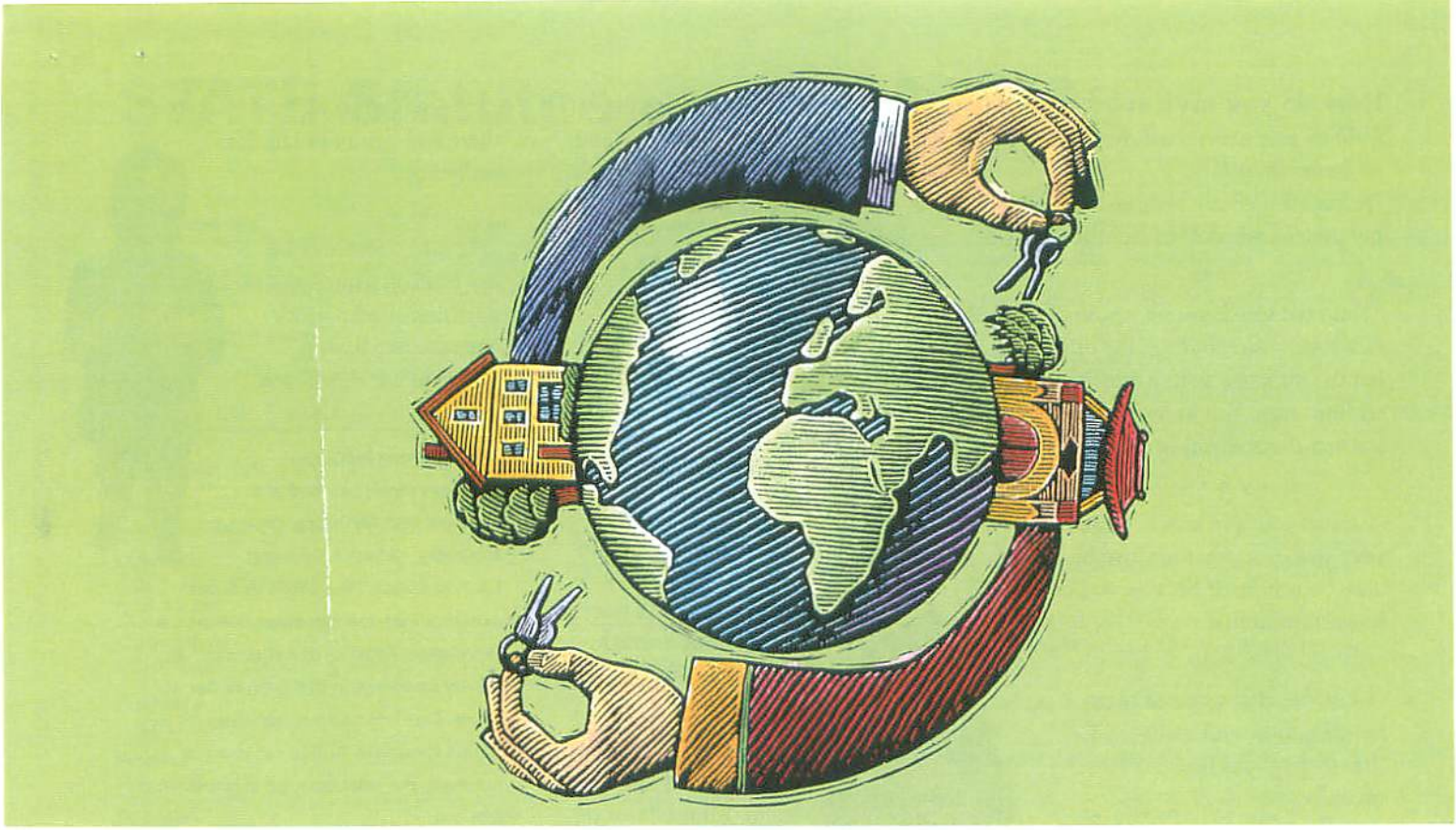
How STATES DIFFER Making the 'MUST MOVE' case at trial Building the case for STAYING PUT
What a MOVE MAY MEAN FOR THE CHILD DOMESTIC VIOLENCE—The tipping point The INTERNATIONAL MOVE



Relocation
A Delicate Balance of Competing Interests

AMERICAN BAR ASSOCIATION



When the ? Involves an International Move

The answer may lie in retaining U.S. jurisdiction

BY LAWRENCE KATZ

Due to the ease and reduced cost of international travel, as well as the speed of modern communications, the world has become smaller. More cross-cultural relationships are developing than ever before, as are more international marriages among people of all socioeconomic levels. A significant percentage of those marriages will terminate in divorce and may result in increased child abductions and international child-custody litigation.

The Convention on the Civil Aspects of International Child Abduction, done at the Hague on 25 Oct. 1980 (Hague Convention) is an international treaty that was promulgated in response to the global problem of international child abduction. The Hague Convention was adopted to protect children internationally from the harmful effects of their wrongful removal or retention and to establish procedures to ensure their prompt return to the nation-state of their habitual residence, as well as to secure protection for rights of access. Its purpose is to deter international child abduction and to provide a mechanism for the prompt return of abducted children to their home countries where the courts can resolve the custody issue on its merits.

The Hague Convention applies only among contracting states and is available only when a child is wrongfully removed from a signatory country and retained in another signatory country. The United States ratified the Hague Convention in 1988, and the Convention was implemented by the International Child Abduction Remedies Act (ICARA), 42 U.S.C. § 11601 *et seq.* (2000).

ICARA deals primarily with the procedural and jurisdictional aspects of proceedings for the return of children from the United States to other signatory countries. A petitioner cannot invoke the protection of the Hague Convention unless the child to whom the petition relates is "habitually resident" in a nation-state signatory to the Hague Convention and has been removed to or retained in a different nation-state. The petitioner must then show that the removal or retention is "wrongful" (see Article 3). Limited defenses are available under the Hague Convention (see Article 12, 13, and 20).

Defining "habitual residence" has not been easy for the courts. No consensus has been reached, although almost all circuits have considered cases involving its definition. See *Gitter v Gitter,* 396 F.3d 124 (2d Cir.); *Feder v. Evans-Feder,* 63 F.3d 217 (3d Cir. 1995); *Miller v Miller,* 240 F.3d 392, (4th Cir. 2001); *Friedrich v. Friedrich,* 983 F.2d 1396 (6th Cir. 1993); *Silverman v. Silverman,* 338 F.3d 886, 898 (8th Cir. 2003); *Mozes v. Mozes,* 239 F.3d 1067 (9th Cir. 2001); *Ruiz v Tenorio,* 392 F.3d 1247 (11th Cir. 2004).

Abduction factors

Several states, including Arkansas, California, and Texas, have promulgated statutes designed to deal with issues that may arise in international travel and custody matters. These statutes usually require courts making a custody determination to consider a list of abduction factors, one of which is whether the other country is a signatory to the Hague Convention.

Texas provides that if the court finds it necessary under § 153.501 to take measures to protect a child from international abduction by a parent, the court may take any of several listed actions, but the code does not define "risk factors." Tex. Fam. Code § 153.503 "Abduction Prevention Measures."

The Arkansas Statute Ann. § 9-13-406 authorizes the court to order abduction-prevention measures, but does not list "risk factors." However, subdivision (c) provides that "The court shall consider the requests of the parent or custodian who does not pose a risk of international child abduction when determining the best methods to prevent the international abduction of a child at risk of becoming a victim of international child abduction."

Florida promulgated Florida Statute § 61.45(3), which provides that in assessing the need for a bond or other security, the court may consider "any reasonable factor bearing upon the risk that a party may violate a visitation or custody order by removing a child from this state or country or by concealing the whereabouts of a child. The factors that may be considered include, but are not limited to, whether a court had previously found that a party removed a child from Florida or another state in violation of a custody or visitation order; whether a court had found that a party had threatened to take a child out of Florida or another state in violation of a custody or visitation order; whether the party has strong family and community ties to Florida or to other states or countries, including whether the party or child is a citizen of another country; whether the party has strong financial reasons to remain in Florida or to relocate to another state or country; whether the party has engaged in activities that suggest plans to leave Florida, such as quitting employment; selling a residence or terminating a lease on a residence without efforts to acquire an alternative residence in the state, closing bank accounts or otherwise liquidating assets, or applying for a passport; whether either party has had a history of domestic violence, as a victim or perpetrator, a history of child abuse or neglect as evidenced by criminal history, including but not limited to, arrest, an injunction for protection against domestic violence issued after notice and hearing, medical records, affidavits, or any other relevant information; or whether the party has a criminal record.

A similar statute has been enacted in California. California Family Code § 3048 (b)(1) contains the following factors that a court may consider in determining whether there is a risk of abduction: whether a party has previously taken, enticed away, kept, withheld, or concealed a child in violation of the right of custody or of visitation of a person; whether a party has previously threatened to take, entice away, keep, withhold, or conceal a child in violation of the right of custody or of visitation of a person; whether a party lacks strong ties to the state; whether a party has strong familial, emotional, or cultural ties to another state or country, including foreign citizenship, which is considered only if evidence exists in support of another factor specified in the section; whether a party has no financial reason to stay in the state, including whether the party is unemployed, is able to work anywhere, or is financially independent; whether a party has engaged in planning activities that would facilitate the removal of a child from the state, including quitting a job, selling a primary residence, terminating a lease, closing a bank account, liquidating other assets, hiding or destroying documents, applying for a passport, applying for a birth certificate or school or medical records, or purchasing airplane or other travel tickets, with consideration given to whether a party is carrying out a safety plan to flee from domestic violence; whether a party has a history of a lack of parental cooperation or child abuse, or there is substantiated evidence that a party has perpetrated domestic violence; and whether a party has a criminal record.

Hague States

A list of Hague Convention signatory countries and effective dates with the United States, can be found at http://travel.gov/family/abduction/hague_issues/hague _issues_1487.html#

In the event that the state in which an international relocation matter is pending has not promulgated a similar statute containing abduction factors, counsel may consider citing the foregoing as relevant factors for the court to consider.

The Hague Convention, however, does not protect ongo-

ing access between the left-behind parent or guardian and the child who has relocated to a foreign country. Although Article 21 of the Hague Convention provides for access, no corresponding enforcement provisions are included for rights of custody. The federal courts have held that they do not have jurisdiction with respect to access issues. See *Wiezel v. Wiezel-Tyrnauer,* 388 F. Supp. 2d 206 (S.D. N.Y. 2005). Thus, there is no assurance that access orders will be recognized and enforced after relocation takes place. Consequently, some courts have denied a custodial parent's request to relocate to a foreign country given that access by the left-behind parent would be reduced and difficult to enforce.

Subject-matter jurisdiction

An attorney who is presented with an international relocation matter must initially be familiar with that state's current law relative to custody awards and relocation and then whether the nation-state where the party intends to relocate is a signatory to the Hague Convention. The initial determination also should include whether the court that entered the final judgment has continuing subject-matter jurisdiction over the relocation. See *Bartolotta v. Bartolotta,* 703 So. 2d 1229 (Fla. 4th DCA 1998).

In a pre-Hague Convention case, the Georgia Supreme Court, in *Mitchell v. Mitchell,* 252 Ga. 46, 311 S.E.2d 456 (1984), affirmed the lower court's order denying the mother's relocation to the United Arab Emirates on the basis that the non-Muslim father would not have rights of access to courts there and, therefore, would be unable to enforce his visitation/access rights in that country.

Nor was relocation authorized in two pre-Hague Convention New York cases. In *Daghir v. Daghir,* 82 A.D.2d 191, 441 N.Y.S. 2d 494 (1981), the mother, who remarried, was denied the right to relocate to France so that her new spouse could accept an assignment. It was significant to the appellate court that the relocation was not required by a "truly compelling factor" in that her new spouse's career would not benefit from the move; there was no financial advantage; he would lose nothing if he rejected the assignment; and the mother married her new spouse after he accepted the offer knowing full well it would necessitate her relocation to France, albeit she never discussed it with the children's father in advance. The lower court's decision unreasonably interfered with the father's right to meaningful visitation and was contrary to the children's best interests.

In *O'Shea v. Brennan,* 88 Misc. 2d 233, 387 N.Y.S. 2d 212 (Sup. Ct. 1976), relocation to Australia was not permitted where the New York Supreme Court found that the proposed move was not in the best interest of the child because once the infant was removed to Australia, the court would lose jurisdiction over her and would render the father's rights of visitation illusory. See also *Otavo v. Otavo,* 374 N.W. 2d 509 (Minn. App. 1985), where the trial court's order was affirmed denying permission to relocate to Finland for virtually the same reasoning as in *Daghir.* A relocation was also not authorized in *Ex parte Dame,* 121 N.Y.S. 2d 168, *aff'd.* 122 N.Y.S. 2d 896 (Sup. Ct. 1953) (relocation to England), and In re *Marriage of Meier,* 286 Or. 437, 595 P.2d 474 (1979) (change of residence to Canada would severely limit visitation rights).

Foreign enforcement

In considering whether to authorize relocation since the ratification of the Hague Convention, courts will look to what extent the foreign country would enforce the left-behind parent's visitation or access rights. A review of recent case law among state courts that have ruled on a request for international relocation indicates that the very fact as to whether the party desires to relocate to a signatory country to the Hague Convention, as opposed to one that is not, is of primary importance in its determination.

In some Middle Eastern countries, a left-behind parent may be prevented from obtaining a visa to enter that country without the prior written authorization from its citizen

Child Custody Bonds

Securing the ties that bind

BY L. SAMIR JALLAD

A child custody bond is an insurance vehicle designed to offer a financial deterrent to violating a custody decree and to provide financial resources to the searching parent for much-needed legal counsel and investigative support. Any party may ask the court (via proper pleadings) to require that a child custody bond be posted during or after divorce proceedings when there is a presumed risk that the terms of the child custody or visitation decree will be violated.

State statutes give family court judges the authority to require security in child custody cases. In all cases, a court with jurisdiction over the child custody and visitation decree has the authority to order forfeiture of the bond based on an assessment of the violation. If the court orders the bond forfeited, proceeds are then paid to the injured parent.

Once the bond is requested, the judge hearing the custody case is responsible for setting the amount, which should be relative to the potential risk and the financial conditions of the parent posting the bond. If the child is voluntarily returned after payment has been made to the searching parent, the bond may be reinstated upon dismissal of the forfeiture and the liability to the insurance company. If the insurance company has paid the forfeiture, the principal and/or indemnitor must make the company whole again and replace the collateral in full prior to reinstatement of the bond. Inquire with insurance carriers in your area to find out which companies underwrite such bonds. To learn more, go to **www.abanet.org/family/advocate//# Current**

L. Samir Jallad is Vice-President of Accredited Security and Casualty in Winter Park, Florida.

residing there. The foregoing presents a classic example of the importance of ascertaining whether a country has ratified or acceded to the Hague Convention, regardless of the party being represented in the international relocation matter. This lack of access to the courts of that country, even if it is a Hague Convention signatory, is an important factor in relocation cases.

In the final analysis, courts either take a best-interest approach, putting the best interest of the child ahead of all else, including the right of the left-behind parent to access, or place primary importance on the right of the child to have regular and frequent visitation with the parent who may be left behind if the right to relocate is granted.

In the case of In re *Marriage of Condon,* 62 Cal. App. 4th 533, 73 Cal. Rptr. 2d 33 (1998), the California Second District Court of Appeal affirmed a lower-court order by which the wife was permitted to relocate with the parties' minor children to Australia with the husband receiving liberal rights of visitation (access), provided that she consent to an order conceding the continuing jurisdiction of the California courts, and the trial court was required to impose appropriate sanctions to enforce her concessions.

Three problems

The court found that there were three concerns that generate "best interest" problems, which make foreign relocations different in kind from intrastate and even most interstate relocations. There is a cultural problem, a distance problem, and the jurisdictional problem. It pointed out that California court orders governing child custody lack any enforceability in many foreign jurisdictions and lack guaranteed enforceability even in those that subscribe to the Hague Convention. Thus, California courts cannot guarantee that custody and visitation arrangements they order for the nonmoving parent will be honored.

In its view, a trial court confronted with a parent's request to relocate a child to a foreign jurisdiction must consider all three of the above factors, in addition to those affecting a domestic move-away. Before permitting any relocation that purports to maintain custody and visitation rights in the nonmoving parent, the trial court should take steps to ensure its orders to that effect will remain enforceable throughout the minority of the affected children.

The relocation to a foreign nation-state may cause the shifting of the habitual residence of the child and, therefore, the Hague Convention may not apply; thus, a petition seeking the return of the child would be denied. In following *Condon,* the court of appeals in *Lasich v. Lasich,* 99 Cal. App. 4th 702, 121 Cal. Rptr. 2d 356 (2002), was concerned, in part, about that issue. Therefore, in an attempt to avoid the shifting of the habitual residence, the mother was required to register the order in Spain under the Hague Convention, at least annually, and to provide proof to the father prior to the relocation.

The relocation order provided that since the children's residence was in California for more than ten weeks per year that they were still habitual residents of that state and not Spain. The mother was required to make such a declaration, acknowledging it in the Spanish courts on an annual basis and providing proof to the father. She also was required to post a bond, which was forfeitable if she sought to modify the court order.

A trial court's order permitting the postjudgment relocation of a child to Israel was affirmed in *Tamari v. Turko-Tamar,* 599 So. 2d 680 (Fla. 3rd DCA 1992). This case was decided prior to enactment of the relocation statute set forth in Florida Statute § 61.13 and the recently enacted Florida Statute § 61.45.

I am not suggesting that the result would not have been different in *Tamari* in light of the change in the law. The mother sought to relocate to Israel and offered to pay the difference in the airfare for the father who resided in New York. The mother's family had relocated to Israel, and no other family members remained in Miami. The court held that the move would be allowed because she would have family support there and the father's contact would not be affected substantially by the relocation.

Significantly, under the Uniform Child Custody Jurisdiction and Enforcement Act, the State of Florida would no longer have continuing subject-matter jurisdiction over its decree under these facts, given the lack of significant contact by either party to that state. Therefore, any effort by the father to enforce his rights may have been problematic. See *Yurgel v. Yurgel,* 572 So. 2d 1327 (Fla. 1990).

In *Osmanagic v. Osmanagic,* 2005 Vt. 37, 872 A.2d 897, 899 (2005), the Vermont Supreme Court stated that "we decline father's invitation to graft the *Condon* factors onto the statute" since it was an international relocation. *Id.* at 899. The parties, both Bosnian citizens, were married in Bosnia, and their son was born there in 1997. Seeking to escape the war in their home country, the family moved to Vermont in 1999. In November 2002, the parties separated, and mother filed for divorce.

During the proceedings, Ms. Osmanagic sought permission to return to Bosnia. The family court engaged in a "best interest" analysis and held that it was in the best interest of the child to be with his mother. That determination was upheld by the Vermont Supreme Court based on the "best interest" analysis. The Hague Convention was not mentioned in the decision.

The following cases, all decided before ratification of the Hague Convention, authorized the relocation of a child or children to a foreign country: *Byers v. Byers,* 370 S.W.2d 193 (Ky. 1963), removal to South Africa was in the best interests of the two girls who were approaching adolescence since they needed the mother's special care and a reasonably alternative visitation (access) schedule was made for the father; *Santucci v. Santucci,* 221 N.J. Super. 525, 535 A.2d 32

(1987), removal to El Salvador, where mother had remarried, the children would have full-time care, and the father's rights were protected by an alternative visitation schedule; *In re Marriage of Ditto,* 52 Or. App. 609, 628 P.2d 777 (1981), the mother was permitted to remove the children to New Zealand with her new husband who accepted a job there, and alternative visitation arrangements had been made for the left-behind father; *Bozzi v. Bozzi,* 177 Conn. 232, 413 A.2d 834 (1979), the mother was permitted to remove the child to Holland, where there was no provision in the custody decree prohibiting relocation.

Best-interest analysis

A lower New York court in *Lazarevic v. Fogelquist,* 175 Misc. 2d 343, 668 N.Y.S. 2d 320 (Sup. Ct. 1997), permitted the mother's relocation to Saudi Arabia, a non-Hague Convention country, provided she complied with the conditions it set. The supreme court undertook a "best interests" analysis and reasoned that there was a large disparity in the respective incomes of the parties, that there were good schools in Saudi Arabia, as well as antiterrorism programs that had been implemented, and the child would be living with his half-siblings and stepfather.

The former wife declared in that case that she would be leaving New York City with her two younger children, the child's stepsiblings, to join the stepfather who had already moved to Dhahran to pursue financially rewarding employment with Aramco. The court held that to deny relocation would result in a dramatic change in that the child's lifelong relationship with his mother, stepfather, and siblings would end. It proclaimed that its decision was in accord with the New York Court of Appeals decision in *Tropea v. Tropea,* 87 N.Y.2d 727, 642 N.Y.S.2d 575, 665 N.E.2d 145 (1996), which replaced New York's previous "exceptional circumstance" test for relocation with a full, general, and detailed inquiry as to what is in the child's best interest.

The fact that Saudi Arabia was not a signatory to the Hague Convention was not a factor considered by the *Lazarevic* court, apparently because counsel never brought it to the court's attention.

In contrast, in *Ahmad v Naviwala,* 306 A.D.2d 588, 762 N.Y.S.2d 125 (2003), where the Hague Convention was brought to the court's attention, the outcome was different. There the respondent father who worked in Saudi Arabia took the children for a three-month visit in 2000. The mother ultimately was refused all contact with the children and was informed that they would not be returning. Ongoing efforts by petitioner during the next two years to regain custody of the children were severely limited by respondent's subversive measures, cultural barriers, and inaccessibility to the Saudi legal system. In 2002, the children were seized in Texas while visiting with the father's family.

The family court granted custody to the respondent pursuant to the parties' agreement, which provided for the children to live with him after 2002. Recognizing that Saudi Arabia was not a signatory to the Hague Convention and that there was no method by which petitioner could enforce her visitation rights while the children resided in that country, the family court imposed various conditions upon respondent, including the posting of a bond.

The appellate division reversed that determination, holding that the family court failed to fully appreciate the magnitude of the respondent's actions in abducting the children. Testimony of experts supported the petitioners' contention that the safeguards put in place by the family court to ensure the petitioner's access to the children in Saudi Arabia were wholly insufficient.

One problem often presented is where the custodial parent is in the United States on a work or visitor's visa that will expire or has expired. If that parent remains here without obtaining a change in immigration status, he or she becomes an illegal alien. It is not unusual for a practitioner focusing on international family law matters to be presented with the following scenario.

> Both parents entered the United States on work visas; they subsequently divorce with a child or children; the noncustodial parent remarries and obtains a change in immigration status by becoming a residential alien; and the custodial parent, who did not obtain a change in that status, experiences a termination of employment and as a consequence must leave the United States or risk remaining here as an illegal alien.

This problem was addressed by the Supreme Court of Wyoming in *Stonham v. Widiastuti a/k/a Stonham,* 2003 Wyo. 157, 79 P.3d 1188 (2003), when it affirmed a district court judgment that awarded sole custody of the children to a mother, permitted their relocation to Indonesia, and ordered that the father's visitation must take place in that country after he posted a bond of $50,000, which was required because of his threats to kidnap a child.

Great discretion

The parties were married in Indonesia, and the mother entered the United States with a tourist visa that expired previously, rendering her an illegal alien. As a result of domestic violence, the mother left the marital home and went to a safe house. The father filed for divorce. The Wyoming Supreme Court held that in analyzing other international relocation cases, "there is one common analytical thread in virtually every case: the best interest of the child is paramount in any award of custody and visitation, and the trial court has a large measure of discretion in making that award. Whether one parent is moving with the children across town or across the world, the analysis remains the same."

In *Condon,* the California court addressed the problem of enforcing a custody order in a foreign jurisdiction, such as Australia, noting that apart from the Hague Convention,

continued on page 47

International Move *continued from page 44*

several statutes in Australia authorize an Australian court to disregard the continuing jurisdiction of a California court to modify its child custody orders. It noted that to avoid this "enforceability conundrum," the mother had offered to concede the continuing jurisdiction of the California court, which may or may not have the effect of changing the child's habitual residence. The court in *Lasich* further attempted to avoid the potential argument that the Hague Convention would not apply to ordering the return of the children to California because after the relocation the habitual residence would shift to Spain.

Nevertheless, the problem that remained in *Condon* and the problem that remains in all international relocation cases is whether the foreign court, irrespective of its status as a Hague contracting state, will enforce an agreement by the relocating parent allowing jurisdiction to remain in the United States. Absent such an advance ruling by the foreign court and entry of a mirror order, there is no way to assure that custody jurisdiction will remain here. Thus, other mechanisms may have to be created or found to safeguard enforcement or facilitate relocation to a non-Hague nation, where it is otherwise in the best interests of the children. **FA**

Lawrence Katz has practiced law for thirty-seven years. He focuses his Miami, Florida, practice on family law with an emphasis on international and interstate cases. He is a mentor with the International Child Abduction Attorney's Network (ICANN), serves on the International Family Law Committee, and has received awards from the National Center for Missing and Exploited Children.

CHAPTER 61.13001 - FACTORS

(a) The nature, Quality, extent of involvement and duration of the child's relationship with the parent or other person proposing to relocate with the child and with the non-relocating parent, other persons, siblings, Half-siblings and other significant persons in the Child's life.

(b) The age and developmental stage of the children, the needs of the child, and the likely Impact the relocation will have on the child's physical, educational and emotional development, taking into consideration any special needs of the child.

(c) The feasibility of preserving the relationship between the non-relocating parent or other person and the child through substitute arrangements that take into consideration the logistics of contact, access and timesharing, as well as the financial circumstances of the parties; whether those factors are sufficient to foster a continuing meaningful relationship between the child and the non-relocating parent or other person; and the likelihood of compliance with the substitute arrangements by the relocating parent or other person once he or she is out of the jurisdiction of the Court.

(d) The child's preference, taking into consideration the age and maturity of the child.

(e) Whether the relocation will enhance the general quality of life for both the parent or other person seeking the relocation and the child, including, but not limited to, financial or emotional benefits or educational opportunities.

(f) The reasons each parent or other person is seeking or opposing the relocation.

(g) The current employment and economic circumstances of each parent or other person and whether the proposed relocation is necessary to Improve the economic circumstances of the parent or other person seeking the relocation of the child.

(h) *That the relocation is sought in good faith and the extent to which the objecting parent has fulfilled his or her financial obligations to the parent or other person seeking relocation, including child support, spousal support and marital property and marital debt obligations.*

(i) The career and other opportunities available to the objective parent or other person If the relocation occurs.

(j) A history of substance abuse or domestic violence as defined in Section 741.28 or which meets the criteria of Section 39.806(1)(d), by either parent, including a consideration of the severity of such conduct and the failure or success of any attempts at rehabilitation.

(k) Any other factor affecting the best interest of the child or as set forth in Section 61.13.

IN THE CIRCUIT COURT OF THE
FIFTEENTH JUDICIAL CIRCUIT, IN AND FOR
PALM BEACH COUNTY, FLORIDA

IN RE: THE MARRIAGE OF

JOHN E. ABDO, JR.,
Petitioner/Husband,
and CASE NO: xxxxxxxxxx

HELENE ICHAI,
Respondent/Wife.
_____/

FINAL JUDGMENT OF DISSOLUTION OF MARRIAGE

This case proceeded to a final hearing on the Husband's Petition for Dissolution of Marriage and the Wife's Counter Petition for Dissolution of Marriage. The Court finds that it has jurisdiction over the parties and the marriage.Both parties were present and were well represented by counsel. The Husband is represented by xxx and the Wife is represented xxx and Lawrence Katz, Esquire. The facts are as follows:

***

While the parties last lived together as Husband and Wife in Boca Raton, Florida, the Husband has relocated for employment to California. The Wife would like to be able to return to France. Both parties have offered proposed parenting plans with the children residing with them. The Husband proposes that the children reside with him and the Wife either resides in California, resides in Florida, or returns to France. The Wife proposes that the children reside with her either in France or in Florida....

***

By the time the case proceeded to trial, the two main issues in the case involved the residence of the children pursuant to F.S. 61.13(3) and the relocation of the Wife pursuant to F.S. 61.1300 1 effective October 1, 2009....

***

Accordingly, based upon the foregoing factual background, the Court has considered the evidence presented, the arguments of counsel, and the applicable case law. The Court makes the following findings of fact and conclusions of law and it is:

ORDERED AND ADJUDGED as follows:

***

RELOCATION & TIMESHARING

Each parent seeks relocation in this case. Palm Beach County, Florida has always been the primary residence and the home state of the children. By temporary Order, the Wife has had the primary residence of the children in Florida. As noted, the Husband has already voluntarily relocated himself more than 50 miles outside of Palm Beach County, Florida to the State of California. The Court addresses Relocation pursuant to F.S. 61.13001, effective October 1, 2009.

the feasibility of preserving the relationship between the non-relocating parent or other person and the child through substitute arrangement that take into consideration the logistics of contact, access and timesharing, as well as the financial circumstances of the parties, whether those factors are sufficient to foster a continuing, meaningful relationship between the child and the non-relocating parent or other person and the likelihood of compliance with the substitute arrangements by the relocating parent or other person once he or she is out of the jurisdiction of the Court.

Because of the Husband's relocation to California and the collapse of the marriage, there would be little doubt that the Husband would have less timesharing than if he had remained in Florida. Notwithstanding, the Court finds that Husband will

still enjoy similar and significant timesharing with the children if the Wife relocates from Florida.

The Husband will be able to communicate with the children through the use of webcam on a daily basis. The Court believes that the relocating parent will comply with all Court Orders and has demonstrated that she will comply with the Orders of this Court. Each party has the financial resources backing them to allow for meaningful contact as evidenced by the amount of money spent on this litigation, which has been far in excess of a half million dollars. In addition, the Husband was able to travel almost every other weekend from California to Florida to exercise his timesharing. Finally, while the Husband has his mother who lives in England and France, the Wife has no one in the United States.

Accordingly, having considered the evidence presented in connection with the foregoing statutory factors, the Court finds itself with the unpleasant task of either moving small children across the Country or across the Atlantic Ocean. While one of the Wife's proposed parenting plans is to leave the children with the Wife in Florida, even the Husband suggested in the closing argument that the Court should not leave them in Florida. The Court finds that it is in the best interest of the minor children to grant the Wife's request for relocation to France with the minor children.

The relocation will be subject to the following conditions and shall not take place for at least Sixty (60) Days from the date of this Final Judgment:

A. The Wife must post a bond or other security in the amount of $100,000 which shall remain until further court order, prior to relocating with the children, as a means of enforcing compliance with this Order and to be used as a sanction if she

willfully fails to comply with this Order as it pertains to timesharing issues.

B. Prior to any relocation, the Wife shall register this Final Judgment of Dissolution of Marriage with the proper authorities or court in France. The Wife represented that they have retained counsel to accomplish this and she shall furnish proof that the registration has taken place to the Husband's counsel. The Wife must show the Husband proof that a mirror order has been established in France prior to any relocation.

***

The State of Florida is presently the home state and habitual residence of the minor children and after their relocation, the State of California will become the habitual residence of the minor children, within the meaning of Article 3 of the Convention. It is anticipated that State of California will have the significant contacts with the minor children. The minor children's home environment in France and the State of California will not expose them to physical or psychological harm, or otherwise place the minor children in an intolerable situation within the meaning of Article 13 of the Convention. Any absence from the State of California shall be a temporary absence and shall not cause the State of California to lose its status as the habitual residence of the minor children.

The Final Judgment of Dissolution of Marriage ratifying this Agreement and incorporating the Parenting Plan is a custody determination/decree in conformance with and complies with the Uniform Child Custody Jurisdiction and Enforcement Act ("UCCJEA") of the State of Florida.

The children are residents and domiciliaries of the State of Florida, United States, and will become residents and domiciliaries of the State of California, which will become

their habitual residence after their relocation to France as provided herein.

The home state of the children is the State of Florida pursuant to the UCCJEA and United State law. The State of Florida will no longer be the home state of the children after their relocation to France. The home state and habitual residence of the children will become the State of California pursuant to the UCCJEA since the children's residence would be in the State of California for more than ten weeks per year that they will be habitual residents of that state and not France. This Court has formulated its opinion that the State of California will be the home state and habitual residence, as opposed to France where the children will reside for the majority of the year, pursuant to the case of *In Re The Marriage of Lasich,* 99 Cal. App. 4, 121 Cal. Rptr. 2d 356 (2002).

***

The Court reserves jurisdiction to enforce and/or modify this Final Judgment and to enter any other Orders that may be just and proper.

DONE AND ORDERED at Delray Beach, Palm Beach County, Florida this 26th day of October, 2009.

/s/
CHARLES E. BURTON
Circuit Judge "

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1065 7/16/12

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT,
IN AND FOR BROWARD COUNTY, FLORIDA

Case No.: FM 11-15280

Division (36)(97)

RANDALL KINCAID
Petitioner,

and
SOLANGE CURUTCHET
Respondent.

FINAL JUDGMENT OF DISSOLUTION OF MARRIAGE WITH DEPENDENT OR MINOR CHILD(REN)

This cause came before this Court for a trial on a Petition for Dissolution of Marriage on July 10 and 11, 2012. The Court has listened to the testimony of the parties and the witnesses. Some of the facts are disputed and some of the testimony and other evidence is conflicting. The Court has had the opportunity to evaluate and weigh all of the testimony presented, based on the Court's consideration of the intelligence, frankness, credibility, plausibility, character and competence of the witnesses, cognizant of the interest of the parties in the outcome of the case. The Court has additionally had the opportunity to consider the reasonableness of the testimony of the witnesses in light of all of the evidence. Giving the evidence and testimony the weight it deserves, the Court has resolved the conflict and determined the facts and law as best as it can. The Court has listened carefully to do its best to ascertain motives, biases, interests, and to also attempt to penetrate through the surface of remarks to their real purposes and motives. The Court has used common sense, and has carefully considered and reviewed the Court file and takes judicial notice of the pleadings contained therein, all of the evidence, the testimony, the argument presented and the applicable case law. Detailed findings are made in this final judgment to facilitate the parties' understanding of the Court's reasoning.

1. The Court has jurisdiction over the subject matter and the parties.

2. At least one party has been a resident of the State of Florida for more than 6 months immediately before filing the Petition for Dissolution of Marriage.

3. The marriage between the parties is irretrievably broken. Therefore, the marriage between the parties is dissolved, and the parties are restored to the status of being single.

4. The Court has jurisdiction to determine parental responsibility of and timesharing with the parties' minor child(ren) listed below.

5. The parties' dependent or minor children are:

Name	Date of Birth	Age
L K	2002	9
C K	2005	ALMOST 7
E K	2008	4

6. Separate memorandum of factual findings and rulings. The Court shall issue a separate memorandum of factual findings and rulings. The memorandum shall be fully incorporated in this final judgment by reference as if fully set forth therein. All matters not set forth in this final judgment are reserved and shall be fully set forth in that separate memorandum.

7. **PROVISIONS FOR DOMESTICATION OF FLORIDA FINAL JUDGMENT AND MEMORANDUM OF FACTUAL FINDINGS AND RULINGS IN ARGENTINA:**

SHARED PARENTAL RESPONSIBILITY PROVISIONS OF PARENTING PLAN AND RIGHTS OF CUSTODY:

State of Florida: The Husband and Wife shall have shared parental responsibility for their children pursuant to Florida Statute §61.13. Both parties shall retain full parental rights and responsibilities for the children and they shall confer with each other to jointly make all major decisions, which affect the health, welfare and well-being of the children. The Florida law prohibits the relocation with the children without satisfying the provisions of Fla. Stat. §61.13001. The aforementioned provision constitutes a *ne exeat* clause. In *Abbott v. Abbott,* 130 S. Ct. 1983, 176 L. Ed. 2d 789 (2010), the Supreme Court held that parents have a right of custody by virtue of a *ne exeat* clause that prohibits the change of residence of the children. The "rights of custody" arise also by reason of this judicial decision having legal effect under the laws of the State of Florida. The parties have "rights of custody" as is set forth in Articles 3 and 5 of the *Hague Convention on the Civil Aspects of International Child Abduction,* done at the Hague on 25th day of November 1980 (hereinafter the "Convention").

Argentina: The Husband and Wife have parental authority that is a set of rights and duties of parents and known as Patria Potestas pursuant to Article 264 of the Argentine Civil Code. In addition, Art. 264 quater provides that the express consent of both parents is required for the children to leave the Republic, which is a ne exeat provision. Thus the parties have "rights of custody" as is set forth in Articles 3 and 5 of the Convention as has been determined in the case of *In Re Ahumada Cabrera*, 323 F. Supp. 2d 1303 (S.D. Fla. 2004).

JURISDICTIONAL ISSUES OF PARENTING PLAN PURSUANT TO FLA. STAT. 61.046 (13)(a-c):

As is set forth in this Final Judgment and Separate memorandum of factual findings and rulings, the Wife may relocate with the minor children to Argentina subject to the provisions set forth herein.

The State of Florida is presently the home state and habitual residence of the minor children and after the relocation Argentina will become the habitual residence of the minor children, within the meaning of Article 3 of the Convention. It is anticipated that Argentina will have the significant contacts with the minor children. Any absence from Argentina shall be a temporary absence and shall not cause Argentina to lose its status as the habitual residence of the minor children.

The Final Judgment of Dissolution of Marriage incorporating this Parenting Plan is a custody determination/decree in conformance with and complies with the Uniform Child Custody Jurisdiction and Enforcement Act ("UCCJEA") of the State of Florida.

The Court which currently has, and retains exclusive jurisdiction of the minor children, and all custody issues of the minor children, pursuant to the UCCJEA, is the Seventeenth Judicial Circuit, in and for Broward County, Florida, United States of America.

The children are residents and domiciliaries of the State of Florida, United States, and will become residents and domiciliaries of Argentina, which will become their habitual residence after their relocation as provided herein.

The home state of the children is the State of Florida pursuant to the UCCJEA and Florida law. The State of Florida will no longer be the home state of the children after their relocation to Argentina. The home state and habitual residence of the children will become Argentina pursuant to the UCCJEA and international law.

The children will have significant connections with Argentina, and there will be available in Buenos Aires, Argentina, substantial evidence concerning present or future care, protection, training and personal relationships of the children.

Such significant connections and relationships may include, but are not limited to:

(a) Peer relationships of the children.
(b) School and education systems;
(c) Contact with family and friends of the parties.
(d) Established medical and dental routines.

No other place will have significant contacts with the children.

Any absence from Buenos Aires, Argentina by the children shall be a "temporary absence" within the meaning of the Convention. Any absence from Buenos Aires, Argentina shall not cause Argentina to lose its status as the "Habitual Residence" of the children within the meaning of Articles 3 and 4 of the Convention.

The State of Florida retains the exclusive right to modify its own custody decrees pursuant to the terms of Title 28 U.S.C. §1738A, the Parental Kidnapping Prevention Act ("PKPA") and the UCCJEA. This Final Judgment is a "right of custody" and for access under Articles 3 and 21 respectively of the Convention. Therefore, only a Court in the State of Florida would have subject matter jurisdiction to modify a decree, unless and until it is determined by the UCCJEA and or this Court that another state or nation-state would have such subject matter jurisdiction.

The Court which currently has, and retains exclusive jurisdiction of the minor children, and all parenting (custody and rights of custody) issues of the minor children, pursuant to the UCCJEA, is the Seventeenth Judicial Circuit, in and of and for Broward County, Florida, United States of America. The Wife is a citizen of the United States and Argentina. The Husband is a Citizen of the United States.

The Supreme Court of Florida in *Yurgel v. Yurgel,* 572 So.2d 1327 (Fla. 1990), held that, so long as one of the parties continues to reside in the State of Florida and so long as the State of Florida, under its own law, has continuing jurisdiction over the issue of children custody, only the State of Florida can modify its custody decrees.

ENFORCEMENT FOR WRONGFUL REMOVAL OR RETENTION:

(a) Except as is provided in the time-sharing provisions of this Final Judgment allowing vacation travel outside of Argentina, neither party may remove the children[1] from Argentina without the written consent of the other party or order of this Court.

(b) These provisions shall apply in the event that the children are removed or retained from their habitual residence either with or without written agreement of the parties or Court order. The parties and children presently reside in the United States, which nation-state is a party to the Convention. The Wife and children will reside in Argentina as provided in this Final Judgment, which is a Convention partner with the United States. The mere fact that these provisions are set forth herein does not constitute, nor should it be construed as constituting either parties' permission, consent or acquiescence that the children may be removed, even on a temporary basis, from their habitual residence in Argentina, at any other times except as set forth herein.

(c) If, upon the finding by a Court, that the Husband fails to comply with the terms of the time-sharing provisions of this Agreement by not returning the children to the Wife, then a Court pursuant to the Convention, Fla. Stat. §61.535 of the UCCJEA and Fla. Stat. §61.16 shall have the jurisdiction to award any and all expenses to the Wife, including, but not limited to, attorney fees, court costs, transportation of the Wife and the children, investigator's fees and similar costs that as a result of this failure become necessary for carrying out this decree.

(d) If, upon the finding by a Court, that the Wife wrongfully removes or retains the children from their habitual residence, then a Court pursuant to the Convention shall have the jurisdiction to award any and all expenses to the Husband, including, but not limited to, attorney fees, court costs, transportation of the Husband and the children, investigator's fees and similar costs that as a result of this failure become necessary for carrying out this decree.

(e) The financial ability of either parent shall not be considered in the application of this section. Any expenditure incurred in the enforcement of this provision of this decree or order issued by a Court relative to wrongful removal or retention shall be presumed to be reasonable subject to evidence to the contrary.

(f) The parties shall execute or deliver any instrument, furnish any information, or perform any other act reasonably necessary to carry out the provisions of this Final Judgment without undue delay or expense.

(g) If either party fails to return the children when scheduled, a third party appointed by the Court shall pick up the children at the at the expense of the party who wrongfully retains the Children.

(h) Both parties are aware that a violation of these provisions of the Final Judgment may constitute a violation of Title 18 U.S.C. §1208 (a), entitled the International Parental Kidnapping Crime Act [IPKCA] and Fla. Stat. §787.03(1), entitled Interference in Custody and constitute civil and criminal contempt of the Court. In addition, it may constitute a violation of the criminal laws of Argentina and other nation-states. They were both present in open court when these provisions were explained.

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[1] This also applies to either one or more of the children. Thus, if one child is removed or retained then these provisions are still applicable.

(i) When the children are with a party for a period of time that is not pursuant to the terms of this Final Judgment or order of the Court, such period of time shall be a temporary absence from the other party who would normally have the children pursuant to the terms of this Final Judgment or an order issued by the Court. In the absence of a written agreement as provided for herein, the party who retains the children shall, upon demand of the other party, at once return the children. Such demand may be written or oral.

(j) If the terms of the temporary absence are in writing, dated, and signed by both parents then such writing or computer data shall be enforced pursuant to the terms of this section.

(k) Any retention of the children beyond the date of their scheduled return from a trip outside of the continental limits of Argentina shall be a "Wrongful Retention" within the meaning of the Convention.

(l) If, for any reason, the children are not returned to their habitual residence in Argentina, and are removed to or retained in a foreign nation-state, the removal or retention of the children shall be deemed wrongful within the meaning of Articles 3 and 5 of the Convention. This Final Judgment may be attached to support any application to the Central Authority of the United States and that of a foreign nation-state or directly to a Court of competent jurisdiction in that foreign nation-state, to assist and secure the return of the children to their habitual residence in Argentina. If, for any reason, the party does not return the children to their habitual residence in Argentina after wrongfully removing or retaining the children, then pursuant to Article 5 of the Convention, this Final Judgment of Dissolution of Marriage constitutes a declaration pursuant to Article 15 of the Convention that the children's habitual residence is Argentina and that the removal of the children is wrongful within the meaning of Articles 3 and 5 of the Convention, under the laws of the United States.

INTERNATIONAL APPLICATION:

(a) Any order entered by a Court for time-sharing, parental responsibility and custody rights may also be entered as an order in the appropriate court of any place where the children may be physically present, regardless of the duration of the children's presence in that place. Such entry may be by *ex parte* application of either party and does not require the consent of the other party.

(b) The parties are cognizant of the fact that this Final Judgment shall be domesticated and registered with the proper authorities or Court in Argentina as provided herein and that they will obtain a *mirror order* from the appropriate Court in Argentina, which is typical in cases involving international relocation in order to enforce this Final Judgment with respect to children issues and to facilitate the return of the children if wrongfully removed or retained from their habitual residence.

Children's U.S. Passports: The parties shall cooperate with each other in executing any and all documents or instruments necessary to obtain and/or renew any of the children's U.S. passports. Such passports shall at all times remain in the possession of the Wife with the exception of such times as the children are travelling outside of Argentina with the Husband, at which time such passports shall be in the possession of Husband. She shall provide the passports to the Husband along with the children for their time-sharing as set forth herein or at

any other times that the parties agree or the Court so orders that the Husband is permitted to temporarily remove the children from their habitual residence to travel abroad. Upon the Husband's return from the children's temporary absence, he shall return the passports to the Wife along with the children. Under no circumstances shall the Husband retain said passport(s) in his possession except as provided herein. Neither party shall utilize or obtain replacements for such passports without the written agreement of the other party nor Court order, except as provided herein. The Wife will ensure that the U.S. passport remains valid, so that there is no interruption or interference with the Husband's timesharing and access, and the Husband shall cooperate by executing the appropriate forms to do so.

Cooperation with Visas: Each of the parties will cooperate with the other in executing any and all documents or instruments necessary to obtain and/or renew any visa required for any travel with the children.

Special Circumstances pursuant to 22 CFR 51.28:

The fact that one of the parties has not complied with this Final Judgment by failing to execute the necessary documents to obtain renewed or replacement U.S. Passports constitutes a "Special Circumstances" as provided in 22 CFR 51.28 of the U.S. Code of Federal Regulations for the federal government to issue a replacement U.S. passport for the minor child(ren) named herein, without the other parties' consent. The return of the child or children to their habitual residence as well as to have time-sharing with the Husband is in their best interests and it is axiomatic that they will require a valid passport to accomplish the foregoing.

ANTI-SUIT INJUNCTION AND REGISTRATION:

(a) The parties are hereby restrained and enjoined from instituting any litigation in any other state or nation-state to modify this Final Judgment, including, but not limited to Argentina unless the Florida Court has declined jurisdiction pursuant to the UCCJEA. Therefore, this Court will enter an anti-suit injunction enjoining the parties from engaging in such modification litigation. The failure of the parties to comply with this provision may constitute civil or criminal contempt of the Court.

(b) The Wife shall register, domesticate or obtain a "mirror" order of this Final Judgment with the proper Argentinean authorities. The cost to register this Final Judgment shall be paid by the Wife. The Husband shall cooperate by taking all steps required of him by the procedures in Argentina to facilitate the registration, domestication, or homologation of this Final Judgment.

(c) The parties specifically understand that this Final Judgment and an Apostille to be obtained by the Wife from the State of Florida shall immediately be domesticated and registered in Argentina for the purpose of obtaining a *mirror order* or other such order from a Argentinean Court verifying the registration and domestication of this decree. Thus, time is of the essence for the Wife as is the Husband's cooperation since he is required to participate in the process under Argentinean law.

7. The Husband shall be obligated to pay child support in the amount of $75, per week payable (x) weekly beginning *{date}* July 20, 2012 and every Friday thereafter, and continuing until (x) the youngest of the minor child(ren) reaches the age of 18, become(s) emancipated, marries, dies, or otherwise becomes self-supporting. The Court deviates from the child support guidelines amount of $607 per month. If the Husband exercises his summer timesharing in the U.S. with the three minor children, he shall not pay child support for the period of time the children are sharing summer timesharing in the U.S., a maximum of three months. The child support shall be paid directly from Husband to Wife. The Wife shall arrange for a bank account which has the ability for the Husband to direct deposit the $75 per week in her account which she can access in Argentina. The Court reserves jurisdiction for the entry of an Income Deduction Order upon Wife's request with the Husband paying the fees therefore, as the Husband has previously been in arrears in child support.

8. The Husband shall pay the $4, 856 child support arrears through July 6, 2012 plus $75 for July 13, 2012, a total of $4931 child support arrears directly to the Wife within 60 days of the entry of this final judgment. He has ample ability to pay this support arrears. It is undisputed that this is the child support arrears that remain unpaid by the Husband, Wife's exhibit 32. If the Husband does not pay this arrears, the Court reserves jurisdiction to enforce these arrears by contempt or by entry of a QDRO transferring this sum to the Wife, with the Husband paying for the Wife's attorney's fees and costs per Florida law for such enforcement, and for the entry of a final judgment of arrears, with statutory interest.

9. Reservation of jurisdiction. The Court retains jurisdiction as to all issues between the parties, and to enter the separate memorandum of factual findings and rulings and any other such further orders as this Court may find reasonable and just. The Court retains jurisdiction to modify, amend, and enforce this final judgment. The Court retains specific jurisdiction to enter a QDRO and any amendments thereto and to transfer title to the marital home pursuant to FRCP 1.570.

ORDERED on July 16, 2012.

Renee Goldenberg

CIRCUIT JUDGE

COPIES TO:

RENEE GOLDENBERG
JUL 16 2012
A TRUE COPY

Petitioner: Pro Se, 1530 SW 187 Terrace, Pembroke Pines, FL 33029

Respondent: Seth Schneiderman, Esq. and Brian Hersh, Esq.