

1996

Utah v. Friis : Brief of Appellee

Utah Court of Appeals

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IN THE UTAH COURT OF APPEALS

STATE OF UTAH,	:	
Plaintiff-Appellee,	:	Case No. 960445-CA
v.	:	
ROBERT FRIIS,	:	Priority No. 2
Defendant-Appellant.	:	

BRIEF OF APPELLEE

- - - - -

APPEAL FROM A CONVICTION FOR CUSTODIAL INTERFERENCE, A
THIRD DEGREE FELONY, IN THE FIFTH JUDICIAL DISTRICT
COURT, IRON COUNTY, THE HONORABLE J. PHILIP EVES
PRESIDING

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BRIEF OF APPELLEE

- - - - -

JURISDICTION AND NATURE OF THE PROCEEDINGS

Defendant appeals from a conviction for custodial interference, a third degree felony, in the Fifth Judicial District Court, Iron County, the Honorable J. Philip Eves presiding. This Court has jurisdiction pursuant to Utah Code Ann. § 78-2a-3(2) (e) (Supp. 1997).

ISSUES PRESENTED ON APPEAL and STANDARDS OF REVIEW

1. By making an unsworn comment to counsel outside the jury's presence, did the judge give "testimony" in violation of rule 605, Utah Rules of Evidence?

Because this issue was not raised below, the plain error standard applies. To establish plain error, an appellant must demonstrate three elements: (i) An error occurred; (ii) the error was obvious; and (iii) the error was harmful. State v. Dunn, 850 P.2d 1201, 1208 (Utah 1993). If any one of these elements is missing, there is no plain error. Id. at 1209.

2. Has defendant adequately briefed his judicial notice claim where he cites no statute, case, or rule of evidence?

This issue does not require this Court to review any action of the trial court. Accordingly, no standard of review applies.

3. Was the State required to prove facts of which the trial court took judicial notice?

To the extent this issues restates issue No. 2, see issue No. 2 above.

To the extent this issue presents a sufficiency claim, this Court will "review the evidence and all inferences which may reasonably be drawn from it in the light most favorable to the verdict of the jury. [It will] reverse a jury conviction for insufficient evidence only when the evidence, so viewed, is sufficiently inconclusive or inherently improbable that reasonable minds must have entertained a reasonable doubt that the defendant committed the crime of which he was convicted." State v. Petree, 659 P.2d 443, 444 (Utah 1983) (citations omitted); accord State v. Goddard, 871 P.2d 540, 543 (Utah 1994).

4. Are defendant's claims based on insufficiency of evidence, premature charging, and jurisdiction properly before this Court?

This issue does not require this Court to review any action of the trial court. Accordingly, no standard of review applies.

4a. Must a foreign custody award be domesticated in the State of Utah in order to support a charge of custodial interference?

"The appropriate standard of review for a trial court's interpretation of statutory law is correction of error." State v. Adams, 830 P.2d 310, 313 (Utah App.) (citation and internal quotation marks omitted), cert. denied, 843 P.2d 1042 (Utah 1992).

5. Has defendant preserved and adequately briefed his claim that the statutory subsection making custodial interference a felony if the child is "removed and taken from one state to another" does not apply to non-residents of Utah?

This issue does not require this Court to review any action of the trial court. Accordingly, no standard of review applies.

6. Has defendant adequately briefed his double jeopardy claim?

This issue does not require this Court to review any action of the trial court. Accordingly, no standard of review applies.

CONSTITUTIONAL PROVISIONS, STATUTES AND RULES

This appeal involves the following provisions, set out in addendum A:

Utah Code Ann. § 76-1-403 (1995);
Utah Code Ann. § 76-5-303 (1995);
Utah Code Ann. § 78-22a-1 through -8; and
Utah Code Ann. § 78-45c-1 through -26.

STATEMENT OF THE CASE

Defendant was charged by Amended Information dated 19 January 1996 with custodial interference, a third degree felony, in violation of Utah Code Ann. § 76-5-303 (1995) (R. 176-77).

A jury found defendant guilty as charged, after which he received a suspended sentence and was placed on probation (R. 331-35). He timely appealed (R. 336).

STATEMENT OF FACTS¹

In 1987, defendant married Linda Friis (now Linda Pace); their only child, Denim, was born in 1991 (R. 720-22). Before the couple separated, defendant repeatedly threatened that if Linda ever divorced him, he would take Denim and go to Mexico (R. 739, 741). Defendant had a pilot's license, a passport, and friends living in Mexico (R. 737-39).

The couple was divorced on 8 May 1995 (R. 803). Defendant was awarded six weeks of summer visitation with Denim during the summer of 1995 (R. 803-04). Linda was awarded one weekend visit after the third week of this six-week period (R. 804).²

¹ Except as otherwise noted, this brief recites facts from the record in the light most favorable to the jury's verdict. State v. Dunn, 850 P.2d 1201, 1205-06 (Utah 1993); State v. Verde, 770 P.2d 116, 117 (Utah 1989).

² At trial, the parties stipulated to these custody terms in order to avoid confusing the jury with conflicting court documents. Although the Stipulation filed in the Superior Court of California did provide for defendant to have six weeks of visitation at the beginning of the summer, the Default Judgment did not incorporate this term. Compare State's exhibit 1 with State's exhibit 2 (these exhibits were not received into evidence [R. 895]). In reliance on the Default Judgment, Linda believed that defendant was entitled to only one week's visitation in June 1995 (see R. 726-29, 805).

The judgment was entered by default because the court had earlier stricken defendant's pleadings based on his having "acted in a manner of exceedingly bad faith with this Court" (Exhibit P-1, R. 287-88).

Defendant had a history of serious problems conforming to the court-ordered visitation schedule (R. 810-11). Visitation exchanges took place in the Parowan police station under the supervision of Officer Preston Griffiths (R. 654-56).

Linda was concerned that she did not have an address for defendant; he had moved out of their old house and she had no way of knowing where he resided (R. 730). Linda told Griffiths that defendant "had pretty much ended up with, with nothing" in the divorce and that "she was afraid that . . . [defendant] would take Denim and something would happen" (R. 675).

At Linda's request, Officer Griffiths asked defendant for his address and telephone number when he came for Denim on 10 June 1995 (R. 656-57, 882). Defendant said that he was waiting for a telephone line to be installed and would call Officer Griffiths the following Tuesday and give him the number (R. 657, 883). Defendant also gave Officer Griffiths a Riverside address (R. 656). Defendant told the officer that he was taking Denim for six weeks (R. 672-73).

However, it was customary for defendant to have custody of Denim for only one week per month (R. 724). In keeping with this custom, and based on her reading of the Default Judgment, Linda assumed that on 10 June 1995, defendant would be taking Denim for one week (R. 726, 729, 805).

Ten days later, Linda spoke to the Parowan police; she was concerned because Denim had not been returned and because the address

defendant had given was fictitious (R. 658-59, 698, 733). Nor had defendant called the police with his new phone number as promised (R. 658, 662-63). Defendant did not grant Linda a weekend visit after three weeks as required by the divorce documents, and six weeks later, he still had not returned Denim (R. 805-06).

On 25 July 1995, six weeks and three days after defendant picked up Denim, Linda hired Mark Swagger of Northwest Investigations, a private investigation firm, to find Denim (R. 735, 807, 836, 840). One week later, Swagger talked to an associate of defendant's who was able to page defendant and a meeting was set up in a restaurant in Alta Loma, California (R. 841-42).

Defendant, who appeared "semi-agitated," told Swagger that he had Denim (R. 842). He also told Swagger that "he knew somebody would be looking for him because he had the child too long" (R. 845, 861). Defendant also claimed that "he thought he had him like six weeks" (R. 871). Defendant agreed to drop Denim off at the Ontario airport on the following Sunday, 6 August (R. 845-46).

However, defendant did not drop off Denim at the airport as promised (R. 692-93, 735-37, 847).³ Accordingly, Swagger instructed his agents to "keep constant pressure on [defendant], his friends, his family, anybody that he associated with until we could come up with him or Denim" (R. 851). Based on his experience in trying to

³ Linda and her investigators spent over six hours in the airport waiting for defendant (R. 692-93, 735, 846-47).

locate thousands of persons, Swagger concluded that defendant "was actively fleeing or trying to evade us" (R. 852-53, 860).

In a conversation during this time, defendant told one of the investigators that "he was told not to release the child by his attorney" (R. 873). However, when Swagger contacted him, the attorney said that he had not been retained by defendant (R. 874).

Defendant eventually contacted one of Swagger's investigators and asked, "Why are you messing with my family and friends?" (R. 682-85). Another meeting was set up and, on 20 August 1995, Denim was returned by three women at the Ontario airport (R. 693-97, 853).

Defendant had kept Denim from 10 June 1995 to 20 August 1995, a period of approximately ten weeks (R. 806).

SUMMARY OF ARGUMENT

1. **Judge's "testimony."** The judge's unsworn comment to counsel outside the jury's presence did not constitute "testimony." Accordingly, it did not violate rule 605, Utah Rules of Evidence.

2. **Judicial notice.** Defendant's judicial notice claim is inadequately briefed. He cites no statute, no case, and no rule of evidence to support it. It is therefore not properly before this Court.

3. **Sufficiency.** Defendant claims that the State presented no evidence that the Superior Court of California is a court of competent jurisdiction. To the extent that this point reiterates defendant's attack on judicial notice in point II, it fails for reasons

explained in the State's point II. To the extent defendant's point III raises an insufficiency claim, it fails for non-compliance with the marshaling requirement.

4. Inadequately briefed claims. Defendant's claims based on insufficiency of evidence, premature charging, California residency, and jurisdiction--all raised in his point IV--are inadequately briefed and so not properly before this Court.

4.a. Domestication of foreign custody award. Defendant claims that he cannot be prosecuted for custodial interference because his visitation rights were governed by a foreign custody award that was never domesticated in Utah pursuant to the Foreign Judgments Act and the Utah Child Custody Jurisdiction Act (UCCJA). This claim is preserved and adequately briefed.

It fails, however, because (1) the custodial interference statute does not require a domesticated or even a "valid" award, only that the award be issued by a court of competent jurisdiction; (2) conversely, nothing in the Foreign Judgments Act or the UCCJA suggests that they were intended to apply in this context; (3) prosecuting defendant for custodial interference does not constitute "enforcement" of the underlying custody award; (4) defendant's interpretation of the Utah statutes runs afoul of the federal Parental Kidnapping Prevention Act; (5) Utah courts have never required domestication of a foreign judgment in order to predicate criminal liability upon it; and (6) requiring domestication here would lead to absurd results.

5. **Crossing state lines.** Defendant's claim that he should not be criminally liable for having removed the child "from one state to another" because he is a resident of California was not preserved at trial and is not adequately briefed on appeal. It therefore fails.

6. **Double jeopardy.** Defendant's double jeopardy claim is inadequately briefed. His brief fails to address the pivotal legal question and cites no relevant authority.

ARGUMENT

POINT I

THE JUDGE'S UNSWORN COMMENT TO COUNSEL OUTSIDE THE JURY'S PRESENCE DID NOT CONSTITUTE "TESTIMONY"

In point I of his brief, defendant claims that the trial judge erred when he "testified" about the courts of the State of California. Br. Aplt. at 11.

Proceedings below. Utah Code Ann. § 76-5-303(1) (1995) defines custodial interference, as charged in this case, as follows:

(1) A person, whether a parent or other, is guilty of custodial interference if, without good cause, the actor takes, entices, conceals, or detains a child under the age of 16 from its parent, guardian, or other lawful custodian:

(a) knowing the actor has no legal right to do so;
and

(b) with intent to hold the child for a period substantially longer than the visitation or custody period previously awarded by a court of competent jurisdiction.

Thus, the State was required to establish at trial that Denim's custody award was issued by a "court of competent jurisdiction." Although

defendant relied on this very award as justification for his actions (see, e.g., R. 667-68, 823-24, 871), he consistently refused to stipulate to an "element of the offense" (R. 799-800).

At the close of the State's case, the prosecutor asked the court to instruct the jury as a matter of law that the Superior Court of California is a court of competent jurisdiction (R. 887). The prosecutor pointed out that the parties had already stipulated that the signing judge was a judge of the Superior Court, that the judge issued a Default Judgment establishing custody and visitation, that defendant and Linda were named in the pleadings, that the parties had testified about the pleadings, and that the trial court had before it exemplified copies of the stipulation and judgment entered by the California court (R. 892-93). Defendant argued that "[t]he Court has not been supplied with the necessary information to take judicial notice" (R. 889).

The judge stated that, in addition, the structure of the California court system was "generally known within the territorial jurisdiction of . . . this Court" (R. 893). Furthermore, the judge had himself practiced law in California for five years before moving to Utah and was "well aware of the fact that the California Superior Court is analogous to the Utah District Court and . . . is charged with handling domestic matters, divorce matters" (R. 894). "And," he continued, "I think it's capable of easy determination whether the California Superior Court is the court that would handle a domestic

matter in that State" (R. 894). The court also noted that evidence had been admitted that defendant and Linda were living in San Bernardino County at the time of the divorce, and that defendant had chosen that jurisdiction in which to file his divorce (R. 894).

The trial court ruled that the foregoing facts were a sufficient basis to take judicial notice that the California Superior Court has jurisdiction over divorce proceedings (R. 894; see also R. 270).⁴

Analysis. The linchpin of defendant's argument is that the trial judge "testified" by informing counsel of his knowledge of the California court system. This "testimony," he argues, violated

⁴ Although the court did not specify this purpose for its action, judicially noticing this fact had the effect of keeping from the jury evidence of defendant's dishonesty. Requiring the State to introduce evidence of the competency of the California court would have necessitated introduction of an exemplified copy of the Default Judgment (see R. 798).

Defendant's objection to the introduction of this document had earlier been sustained (see R. 750-61, 785-86). Defendant's motion was based on the fact that the California judgment recited the bad faith actions of defendant, including his fraudulent transfer of a Cessna airplane, his intentional and deliberate disobedience to the orders of the court, his deliberate and intentional dissipation of community assets "for the explicit purpose of defrauding the community," his removal of numerous boats to Arizona "in order to avoid the Jurisdiction of [the California] Court," and the sale of assets "in contravention of the Court Order and in a direct contradiction of" his prior testimony (Exhibit P-1, R. 288-91). As a result of defendant's having "acted in a manner of exceedingly bad faith with [the California] Court," that court struck his pleadings and entered the default judgment (Exhibit P-1, R. 287-88).

Had the Utah District Court not taken judicial notice of the jurisdictional competency of the Superior Court of California, this document would have had to be introduced. Thus, the trial court's action obviated the need to introduce this arguably inflammatory document.

rule 605, Utah Rules of Evidence, which provides: "The judge presiding at the trial may not testify in that trial as a witness. No objection need be made in order to preserve the point." See Br. Aplt. at 12.

The judge's statement was not testimony. It was not made under oath nor before the jury (see R. 887). Defendant cites no authority supporting his assumption that a judge's statement to counsel outside the presence of the jury is "testimony." See Br. Aplt. at 11-13.

On the contrary, "testimony" by definition is given "under oath or affirmation." Black's Law Dictionary 1476 (6th ed. 1990). Because the judge's statement was not "testimony," it did not violate rule 605 and, consequently, defendant's first point lacks merit.

POINT II

DEFENDANT'S JUDICIAL NOTICE CLAIM IS INADEQUATELY BRIEFED AND THEREFORE NOT PROPERLY BEFORE THIS COURT

Defendant claims that the trial court erred by judicially noticing an element of the offense, to wit, that the custody award here was issued by a court of competent jurisdiction. Br. Aplt. at 13.⁵

Rule 24(a)(9), Utah Rules of Appellate Procedure, requires that the argument portion of appellant's brief "shall contain the contentions and reasons of the appellant with respect to the issues presented, including the grounds for reviewing any issue not preserved

⁵ Defendant's brief contains no citation to the record showing that this claim was preserved in the trial court or any statement of grounds for seeking review of an unpreserved issue. See Br. of Aplt. at 2. Consequently, the brief violates rule 24(a)(5), Utah Rules of Appellate Procedure. The claim was, however, arguably preserved below (see R. 889).

in the trial court, with citations to the authorities, statutes, and parts of the record relied on." (Emphasis added.)

Under this rule, Utah appellate courts decline to consider arguments that are not adequately supported by authority and analysis. See, e.g., State v. Wareham, 772 P.2d 960, 966 (Utah 1989); State v. Amicone, 689 P.2d 1341, 1344 (Utah 1984); State v. Farrow, 919 P.2d 50, 53 n.1 (Utah App. 1996); State v. Streeter, 900 P.2d 1097, 1100 n.3 (Utah App. 1995), cert. denied, 913 P.2d 749 (Utah 1996); State v. Jennings, 875 P.2d 566, 569 n.3 (Utah App. 1994); State v. Mincy, 838 P.2d 648, 652 n.2 (Utah App. 1992); State v. Price, 827 P.2d 247, 248-50 (Utah App. 1992); State v. Day, 815 P.2d 1345, 1351 (Utah App. 1991); State v. Caver, 814 P.2d 604, 613 (Utah App. 1991); State v. Sterger, 808 P.2d 122, 125 n.2 (Utah App. 1991); State v. Pascoe, 774 P.2d 512, 514 n.1 (Utah App. 1989).

This Court should decline to consider point II of defendant's brief because he has failed to comply with rule 24(a)(9). Defendant cites no statute, no case, and no rule of evidence. See Br. Appt. at 13-15. The only legal authority he cites is rule 4-504, Utah Rules of Judicial Administration, which requires the submission of proposed orders to opposing counsel for approval as to form, a point not at issue in this case. See Br. Appt. at 15.

Under the authorities cited above, this Court should decline to reach defendant's claim that the trial court erroneously took

judicial notice that the California Superior Court has jurisdiction over divorce proceedings (R. 894).⁶

POINT III

THE STATE WAS NOT REQUIRED AT TRIAL TO PROVE FACTS OF WHICH THE TRIAL COURT HAD TAKEN JUDICIAL NOTICE

Defendant claims that the evidence of his guilt was insufficient because the State "never presented any evidence" that the California Superior Court was a court of competent jurisdiction. Br. Aplt. at 15-16.

Of course, the trial court judicially noticed that the California court had jurisdiction over domestic matters, thereby obviating the need for proof on this point. See State v. Lawrence, 234 P.2d 600, 601 (Utah 1951) ("Judicial notice is the taking cognizance by the court of certain facts without the necessity of proof").

To the extent that defendant's point III reiterates his attack on the trial court's having taken judicial notice, it fails for reasons stated in point II herein (complete lack of supporting authority).

⁶ All evidence introduced at trial supported the court's ruling in any event. Defendant's theory that he was entitled to six weeks of visitation necessarily assumed the legitimacy of the stipulation entered by the California Superior Court (see, e.g., R. 871-72). On appeal he continues to argue that his visitation was "regular and authorized" and that he was merely "engaged in court ordered activities." Br. Aplt. at 16. At trial, no evidence or representations of counsel raised the least doubt that the California award constituted a custody award "by a court of competent jurisdiction." Utah Code Ann. § 76-5-303(1)(b) (1990).

To the extent that defendant's point III raises an insufficiency claim, his one-page discussion of this issue fails to satisfy or even to acknowledge his obligation to marshal the evidence in support of the jury verdict. "A challenge to the sufficiency of the evidence presents the defendant with a heavy burden. He must first marshal all the evidence supporting the jury's verdict and then demonstrate how this evidence, even viewed in the most favorable light, is insufficient to support the verdict." State v. Strain, 885 P.2d 252, 819 (Utah App. 1994) (citations omitted); accord West Valley City v. Majestic Inv. Co., 818 P.2d 1311, 1313 (Utah App. 1991).

Even if the trial court had not judicially noticed the jurisdiction of the California Superior Court, the record contains evidence from which a jury could reasonably have inferred this fact. Defendant acknowledges none of this evidence, see Br. Aplt. at 15-16, even though his own theory of the case relied on the validity of the California custody award. On appeal, defendant continues to assert that his conduct "was no violation of the law" because he acted "pursuant to that court order." Br. Aplt. at 16.

Finally, defendant has not complied with the briefing requirements of rule 24(a)(9). See authorities cited in point II above. Other than quoting Utah Code Ann. § 76-1-501 (presumption of innocence), he cites no authority. See Br. Aplt. at 15-16. In addition, defendant's point III contains no analysis of the interplay between judicial notice and sufficiency that underlies his argument.

Based on the authorities cited in point II of this brief, defendant's point III fails for inadequate briefing and failure to marshal.

POINT IV

DEFENDANT'S CLAIMS BASED ON INSUFFICIENCY OF EVIDENCE, PREMATURE CHARGING, AND JURISDICTION ARE INADEQUATELY BRIEFED

Point IV of defendant's brief asserts a cluster of related claims based on insufficiency of evidence, premature charging, California residency, jurisdiction, and the foreign nature of the custody award. All but the last, which will be treated separately in point IV-A herein, are inadequately briefed on appeal.

Authorized visitation. Defendant claims that the State "use[d] the regular and authorized exercise of visitation to meet an element of the offense." Br. Aplt. at 16 (capitalization omitted). He argues that when he picked up his son "he was doing so pursuant to the stipulation between the parties that was entered into in California." Id.

The issue at trial and under the statute was not whether defendant was acting pursuant to a court order. Indeed, one element of the crime is that the perpetrator "hold the child for a period substantially longer than the visitation or custody period previously awarded." § 76-5-303(1)(b). This language presupposes that the perpetrator's custody is initially authorized.

The trial court and the parties agreed that the central issue at trial was defendant's intent when he picked Denim up.⁷ Thus, when defendant moved to dismiss at the conclusion of the State's case, the prosecutor responded that "the crux of the case is the intent of the defendant at the time that he took the child" (R. 904). He argued that defendant's phony address and broken promise to call back with a telephone number constituted prima facie evidence of defendant's intent at the time (R. 904). The trial court denied defendant's motion to dismiss, ruling that the jury would have to decide "whether or not when Mr. Friis came to pick up the, the child he already had decided he was gong to keep the child longer than the visitation period" (R. 906).

To the extent defendant now attacks this ruling as contrary to law, his attempt fails under the authorities cited in point II herein because he includes no legal authority or analysis. See Br. Aplt. at 16-19.

To the extent defendant intends to attack the jury verdict, see Br. Aplt. at 19, his attempt fails because he does not marshal the evidence supporting the jury verdict on this issue. See authorities cited in point III herein. Defendant asserts that "at no time was there evidence taken to show that Mr. Friis intended to deprive his ex-wife of custody when he picked up his son for summer

⁷ Otherwise, no part of the crime occurred within the State of Utah.

vacation. (R. at 901)." Br. Aplt. at 19. Defendant's record cite is to his own argument below. Given that rearguing favorable evidence does not satisfy appellant's burden to marshal, see York v. Shulsen, 875 P.2d 590, 598 (Utah App. 1994), a fortiori citation to one's own argument below does not.

Other claims. Point IV of defendant's brief may be read to assert other claims: that his conviction should be reversed because an information and arrest warrant were issued prematurely, see Br. Aplt. at 17; that, as a California resident, he cannot be guilty of having "removed [Denim] and taken [him] from one state to another," section 76-5-303(3), Br. Aplt. at 18; and that the trial court lacked jurisdiction because "[t]here was no offense at all especially that was committed in the State of Utah." Id.

Under the authorities cited in point II herein, all such claims fail because they are unsupported by any legal authority or analysis. See Br. Aplt. at 17-18. "[A] reviewing court is entitled to have the issues clearly defined with pertinent authority cited and is not simply a depository in which the appealing party may dump the burden of argument and research.'" State v. Snyder, 932 P.2d 120, 130 (Utah App. 1997) (quoting State v. Bishop, 753 P.2d 439, 450 (Utah 1988) (citation omitted)).

POINT IV-A

A FOREIGN CUSTODY AWARD NEED NOT BE REGISTERED IN THE STATE OF UTAH IN ORDER TO SUPPORT A CHARGE OF CUSTODIAL INTERFERENCE

In the latter portion of point IV, defendant's brief argues that defendant cannot be guilty of interference with custody based on a California custody award that was never registered in Utah. See Br. Aplt. at 19-23.⁸ This claim is preserved and adequately briefed.

Defendant relies on two statutes. The first is the Foreign Judgment Act, Utah Code Ann. § 78-22a-1 through -8. Br. Aplt. at 19-20. This Act establishes a procedure for enforcing in Utah judgments entered by the courts of other states. The judgment creditor files a copy of the foreign judgment in the district court together with an affidavit stating the last known address of the judgment debtor. Utah Code Ann. § 78-22a-3(1). The court clerk mails notice of the filing of the judgment to the judgment debtor, and, after a 30-day waiting period, the judgment is "subject to the same procedures, defenses, enforcement, satisfaction, and proceedings for reopening, vacating, setting aside, or staying as a judgment of a district court of this state." Utah Code Ann. § 78-22a-2, -3.

⁸ The State has numbered this claim point IV-A in order to devote an entire point to this claim while still somewhat tracking defendant's numbering.

The other statute on which defendant relies is the Utah Uniform Child Custody Jurisdiction Act (UCCJA), Utah Code Ann. § 78-45c-1 through -26. The primary purpose of the Act is to "avoid jurisdiction competition and conflict with courts of other states in matters of child custody." See Utah Code Ann. § 78-45c-1(1)(a). The UCCJA establishes a procedure for filing foreign custody decrees in a Utah district court. See Utah Code Ann. § 78-45c-15(1). Once the parties are given notice and an opportunity to be heard, a "custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this state." Id. However, "if the copy has not been filed, it shall not be considered a valid custody decree." Id.

Holm v. Smilowitz, 840 P.2d 157 (Utah App. 1992) considered these two statutes in a civil custody dispute. The case involved an Ohio divorce decree which had been filed in Utah and an Ohio modification order which had not. Id. at 159. Under one order, the mother was entitled to custody; under the other, the father was. Id. This Court held that "only the original divorce decree was enforceable in Utah since only it had been filed here." Id. at 164.

Defendant contends that Holm controls the case at bar. See Br. Aplt. at 22. Prosecuting him for custodial interference based on the California Default Judgment, he argues, constitutes "enforcement" of an undomesticated foreign judgment. Id.

The trial court rejected this application of a civil precedent in the criminal context (R. 779-82). It reasoned that prosecuting a violation of the custodial interference statute was unlike taking jurisdiction of a domestic dispute and enforcing or modifying the provisions of a foreign decree (R. 781-82). The court ruled that the criminal statute had "specific elements and that those elements do not require any particular validation of a foreign judgment before . . . criminal charges can be brought . . . (R. 782).

The court's ruling was correct for many reasons. **First**, as the court noted, the custodial interference statute by its plain terms requires only an award "by a court of competent jurisdiction," section 76-5-303(1)(b), not a Utah award, a domesticated award, an award enforceable in this jurisdiction, or even a "valid" award (see R. 775). Thus, the prosecution needed to establish only that the Default Judgment was awarded by a court of competent jurisdiction. Cf. State v. Smith, 764 P.2d 997, 998 (Utah App. 1988) (per curiam) ("Our statute requires the accused person to have secured temporary custody or visitation of the child, or otherwise acted pursuant to a court order.").

Second, conversely, nothing in the Foreign Judgments Act or the UCCJA suggests that either was intended to apply in the criminal context. The text of the Foreign Judgments Act makes no reference to the criminal setting. On the contrary, the Act speaks in civil jargon, specifying for example that the foreign judgment is to be

filed by the "judgment creditor or attorney for the creditor" and notice served upon the "judgment debtor." Utah Code Ann. § 78-22a-3.

Similarly, the UCCJA makes no reference to criminal law. One stated purpose of the Act is to "deter abductions and other unilateral removals of children," but only those "undertaken to obtain custody awards." Utah Code Ann. § 78-45c-1(a)(e). There is no indication that the abduction at issue here was undertaken for this purpose.

These statutes are limited to the civil context and Utah courts have never required domestication of foreign judgments in the criminal context. Hence, Holm, a civil enforcement action, does not control the case at bar (see R. 784-85).

Third, prosecuting a defendant for custodial interference does not constitute "enforcement" of the underlying custody award. Defendant cites no authority to the contrary. See Br. Appt. at 19-23. Section 76-5-303(1)(b) provides that a person commits the crime of custodial interference if he does certain specified acts "with intent to hold the child for a period substantially longer than the visitation or custody period previously awarded by a court of competent jurisdiction." Thus, the finder of fact looks to the custody award to determine the duration of the custody period, but does not "enforce" it. Indeed, the filing of a criminal action is not a recognized means of enforcing a civil judgment. See generally 30 Am. Jur. 2d Executions and Enforcement of Judgments (1994).

Fourth, if, on the other hand, prosecuting defendant for custodial interference does constitute enforcement of the California Default Judgment, requiring its domestication may run afoul of federal law. The Parental Kidnaping Prevention Act (PKPA) preempts the state's version of the UCCJA if the two conflict. In re D.S.K., 792 P.2d 118, 128 (Utah App. 1990) (citations omitted). The PKPA provides that "[t]he appropriate authorities of every State shall enforce according to its terms . . . any child custody determination made consistently with the provisions of this section by a court of another State." 28 U.S.C. 1738A(a). The PKPA contains no domestication requirement.⁹

Fifth, judicial opinions discussing foreign judgments in the criminal context never mention any domestication requirement. For example, in State v. Higgenbotham, 917 P.2d 545, 549 (Utah 1996), the State attempted to prove that Higgenbotham was on parole for a prior felony conviction, an element of the crime of possession of a firearm by a restricted person. The supreme court analyzed at length the State's proof and ultimately concluded that it had failed to introduce adequate proof of Higgenbotham's Idaho conviction. Id. at 549-50. However, the court never intimated that domestication of the Idaho judgment of conviction was required. See id. Accord State v. Lamorie, 610 P.2d 342 (Utah 1980) (in possession of firearms

⁹ Holm does not address the PKPA. See 840 P.2d at 160-64.

case, proof of defendant's prior Colorado conviction was insufficient; however, no mention of domestication requirement); see also In re Smith, 925 P.2d 169, 171-73 (Utah 1996) (affirming lawyer's disbarment based on Wisconsin convictions; no mention of domestication requirement).

Finally, this Court should decline defendant's invitation to graft the filing requirements of the Foreign Judgments Act and the UCCJA onto Utah's criminal custodial interference statute because doing so would lead to absurd results. See Millett v. Clark Clinic, 609 P.2d 934, 936 (Utah 1980) ("interpretations are to be avoided which render some part of a provision nonsensical or absurd"). Defendant's interpretation would require parents new to the state or visiting here to register foreign custody awards 30 days prior to entering Utah in order to claim protection of the custodial interference statute.

The fact pattern of the case at bar also illustrates the mischief that defendant's reading of the statutes would create. Defendant faults Linda Pace for not domesticating the California Default Judgment. See Br. Aplt. at 23. However, in reality, under defendant's reading of the statutes, protecting Denim from defendant's acts on 10 June 1995 was a practical impossibility.

Under the Foreign Judgments Act, "No execution or other process for the enforcement of a foreign judgment filed under this chapter may issue until 30 days after the judgment is filed [in a district

court of this state]." Utah Code Ann. § 78-22a-3.¹⁰ The Default Judgment here was entered 8 May 1995 in the California Superior Court (R. 296, 803). Assuming that Linda Pace's California counsel mailed her a certified copy that very day, and allowing three days for mailing, she would have received it on 11 May 1995. Assuming further that her Utah counsel filed it in a Utah district court the following day, 12 May 1995, the judgment would have been domesticated 30 days later, on 11 June 1995, the day after defendant gave a fictitious address and picked Denim up in Parowan (R. 672-73).¹¹

Thus, defendant in effect urges this Court to construe these statutes to insulate him from prosecution for custodial interference, regardless of his acts or his intent, and regardless how vigilant Linda Pace was in domesticating the California Default Judgment. This result is not required by the terms of the statutes themselves, by Utah precedent, or by the equities of this case.

¹⁰ Under the UCCJA, a foreign decree "shall not be considered a valid custody decree" until it is filed in a Utah district court and all parties are given an opportunity to contest it, a process that could also consume 30 days or more. See Utah Code Ann. § 78-45c-15.

¹¹ Beginning the domestication process on 18 June 1995, as defendant now suggests, see Br. Aplt. at 22, would not have cured the defect he alleges, since the California Default Judgment would not have been a "valid decree" on 10 June 1995, the date on which the crime was committed (see R. 904-07).

POINT V

DEFENDANT'S CLAIM THAT THE STATUTORY SUBSECTION MAKING CUSTODIAL INTERFERENCE A FELONY IF THE CHILD IS "REMOVED AND TAKEN FROM ONE STATE TO ANOTHER" DOES NOT APPLY TO NON-RESIDENTS OF UTAH IS UNPRESERVED AND INADEQUATELY BRIEFED

Under section 76-5-303(3), custodial interference is a class A misdemeanor "unless the child is removed and taken from one state to another, in which case it is a felony of the third degree." It is undisputed that defendant took Denim from Utah to California. See Br. Aplt. at 24. However, defendant claims that he should not have been charged with a felony because his "reason for transporting his son out of this state was because he resides in the State of California." Br. Aplt. at 24. "At the very most," defendant argues, he "should have only been charged with a misdemeanor." Id. at 25. Charging him with a felony under section 76-5-303(3), he contends, constituted a violation of "the Fifth and Fourteenth Amendments to the U.S. Constitution as well as Article I, Sections 7, 24 [sic] of the Utah State Constitution." Id.

A. This claim was not preserved below.

Defendant's brief contains no citation to the record showing that this constitutional claim was preserved in the trial court or any statement of grounds for seeking review of an unpreserved issue. See Br. of Aplt. at 2. Consequently, the brief violates rule 24(a)(5), Utah Rules of Appellate Procedure.

Nor is the claim preserved. Although defendant referred at trial to "the transporting across the State line" (R. 901), he never asserted the constitutional claims he now urges on appeal. "It is well established that 'a contemporaneous objection or some form of specific preservation of claims of error must be made a part of the trial court record before an appellate court will review such claim on appeal.'" State v. Rangel, 866 P.2d 607, 611 (Utah App. 1993) (quoting State v. Johnson, 774 P.2d 1141, 1144 (Utah 1989)).

B. This claim is inadequately briefed.

In addition, this Court should decline to consider this issue on the ground that it is inadequately briefed.

Defendant cites two cases, Smith and Nielsen v. Nielsen, 620 P.2d 511 (Utah 1980). See Br. Aplt. at 23-26. Neither is relevant. Smith holds that section 76-5-303 cannot be used to prosecute those not subject to a custody award. 764 P.2d at 997-98. Nielsen involved a plaintiff's brief detention of the child, "predicated on a good faith belief of plaintiff that he had good cause, which he substantiated by filing a petition for modification and receiving a temporary restraining order." 620 P.2d at 513. The supreme court held that these actions "do not fall within the purview" of section 76-5-303(1).

Although defendant claims that he is asserting "the same claim" as in Nielsen, see Br. Aplt. at 26, neither Nielsen nor Smith mentions section 76-5-303(3), the U.S. Constitution, the Utah Constitution,

or the distinction between misdemeanor and felony custodial interference. In short, neither is relevant to this point. Defendant cites no other statute, case, or rule of evidence in support of his constitutional claims. See Br. Aplt. at 23-26.

Although defendant claims that application of section 76-5-303(3) to him violates the Fifth and Fourteenth Amendments to the United States Constitution and article I, sections 7 and 24 of the Utah Constitution, he does not quote or discuss the text of any of these provisions or any precedents discussing them. See Br. Aplt. at 23-26.

Based on the authorities cited in point II of this brief, defendant's insufficiency claim fails for inadequate briefing.

POINT VI

BECAUSE DEFENDANT FAILS TO ADDRESS THE PROPRIETY OF THE DISMISSAL OF HIS FIRST TRIAL IN LIGHT OF THE CONTROLLING STATUTE, HIS DOUBLE JEOPARDY CLAIM IS INADEQUATELY BRIEFED

After defendant's first trial ended in a mistrial, he was tried again and convicted. Defendant claims that this retrial violated his state and federal double jeopardy rights. See Br. Aplt. at 26.

Proceedings below. Defendant's first trial began on 19 January 1996 (R. 429). After the jury was sworn and impaneled, a juror ran into defense counsel in the court parking lot and said to him, "What are you doing driving a ragtop [convertible] down in country like this or weather like this" (R. 544). Defense counsel responded, "we can't talk" (R. 545). The juror replied, "Not even a little?" or words to that effect, and added, "I like your boots anyhow" (R.

545). Defense counsel "informed the Court of the contact so that things [could] be dealt with appropriately" (R. 546).

The State moved for a mistrial, arguing for the importance of "the appearance of justice . . . and fairness in our judicial system and whatever the outcome the State would not want Ms. Friis or the public to believe that the verdict [was] based upon anything other than the evidence presented to the court (R. 546).

Defense counsel responded that his boots were cobra skin, highly unusual, with a fancy pattern (R. 547). He stated, "I get stopped on the street by total strangers who tell [me] they like my boots and sometimes they want to touch them" (R. 546). While such occurrences were sometimes embarrassing, they were "not at all unusual" (R. 546). Defense counsel objected to the State's motion on two grounds: first, that his client was incarcerated with bail set at \$100,000; and second, that a delay would permit the State to cure any defects in its evidence (R. 549-51).

The court stated that if the situation were reversed, the defendant would have a right to a mistrial under controlling case law (R. 553-54). It further opined that the State also had a right to a fair trial with respect to juror contacts (R. 554-55).

"However," the court continued, "before I [grant the State's motion], nobody has taken any time to research what the effect will be with regard to double jeopardy where jeopardy has attached. Does anybody desire any time for that purpose or do you want me to rule

now?" (R. 554-55). Defense counsel responded, "I think we need a ruling now, Your Honor" (R. 555). The prosecutor agreed (R. 555).

The court granted a mistrial and reduced bail from \$100,000 cash to \$15,000 cash or surety (R. 572, 578).¹² Trial was reset for 8 February 1996 (R. 580-84).

At the outset of the second trial, defendant moved to dismiss on double jeopardy grounds (R. 607). He claimed prejudice in that the State had added a witness to its witness list and had obtained an exemplified copy of the California divorce judgment (R. 610-11).

The court denied defendant's motion in reliance upon Utah Code Ann. § 76-1-403(4)(c)(iii) (1995) (R. 630, 634). It found that the juror's conversation with defense counsel made it "difficult or impossible or . . . unadvisable to proceed with the trial because there was a substantial danger that the State's right to a fair trial would be prejudiced" (R. 632). The court also identified potential prejudice to the defendant arising from the fact that defense counsel "rebuffed the advance of the juror and basically walked away from him" (R. 632). The court ruled although it "didn't use the magic [statutory] words 'impossible to proceed'" its "ruling was substantially in compliance with [Utah Code Ann. § 76-1-403(4)(c)(iii)]" (R. 632-33).

Analysis. This issue is inadequately briefed by defendant.

¹² Defendant was also being held on \$5,000 bail pending trial on assault by prisoner charges (R. 571).

Absent a claim that constitutional guarantees differ from the statute, double jeopardy issues in Utah are controlled by Utah Code Ann. § 76-1-403 (1995). See State v. Nilson, 854 P.2d 1029, 1031-32 (Utah App. 1993). Subsection 76-1-403(1) forbids reprosecution of a defendant if the former prosecution was "improperly terminated." Termination is improper if it "takes place before the verdict, is for reasons not amounting to an acquittal, and takes place after a jury has been impanelled [sic] and sworn to try the defendant," subject to certain exceptions. § 76-1-403(4). One of the exceptions is where "[p]rejudicial conduct in or out of the courtroom not attributable to the state makes it impossible to proceed with the trial without injustice to the defendant or the state." Utah Code Ann. § 76-1-403(4)(c)(iii).

It was on this ground that the trial court denied defendant's motion to dismiss based on double jeopardy (R. 631-34). Consequently, the dispositive question on appeal is whether the juror contact made it "impossible to proceed" with defendant's first trial "without injustice to the defendant or the state." § 76-1-403(4)(c)(iii). Cf. State v. Castle, No. 960755-CA, slip op. at 5-8 (Utah App. January 2, 1998).

However, defendant's brief does not address this question. It does not cite the controlling statutory language except insofar as the extended excerpt from Nilson incidentally includes it. See Br. Aplt. at 27. Defendant claims that Nilson "is precedent in this

matter.” See Br. Aplt. at 28. However, Nilson addresses subsection 403(4)(a); it says nothing about subsection 403(4)(c). See Nilson, 854 P.2d at 1032. It therefore sheds no light on the question before this Court. Defendant’s brief otherwise cites no authority except article I, section 12 of the Utah Constitution. See Br. Aplt. at 26. Nor does the brief cite any precedents discussing when improper juror contact warrants a mistrial. See, e.g., State v. Pike, 712 P.2d 277, 279-80 (Utah 1985); State v. Tenney, 913 P.2d 750, 757 (Utah App. 1996); State v. Swain, 835 P.2d 1009, 1011 (Utah App. 1992); Logan City v. Carlson, 799 P.2d 224, 225-26 (Utah App. 1990); State v. Jonas, 793 P.2d 902, 908-09 (Utah App. 1990).

The following sentence constitutes defendant’s entire discussion of the termination of the first trial: “The prosecution failed to inquire the nature of the conversation [sic] or adequately demonstrate findings in which this Court could properly rule for a mistrial and not attach Double Jeopardy [sic].” Br. Aplt. at 28. Any implication that the nature of the conversation was not adequately explored is misleading, since defense counsel himself disclosed the entire conversation to the Court (see R. 546).

Likewise, the claim that the trial court failed to make adequate findings is puzzling in light of the following statement by the court: “But I certainly made a finding that the State’s right to a fair trial was in jeopardy because of that contact. And I think that’s, that is tantamount to the finding required under 76-1-403. I didn’t

use the magic words 'impossible to proceed' but I think that my ruling was substantially in compliance with that statute" (R. 632-33). The court was correct. So long as "the record clearly reflects that the mistrial was based on" the requirements of section 76-1-403(4)(c)(iii), any deficiency in the trial court's findings is harmless. See Castle, No. 960755-CA, slip op. at 6.

In short, defendant's brief contains no authority or analysis relevant to the pivotal question of whether defendant's first trial was improperly terminated. Accordingly, based on the authorities cited in point II of this brief, defendant's double jeopardy claim fails for inadequate briefing.

CONCLUSION

Defendant's conviction should be affirmed.

RESPECTFULLY submitted on 6 January 1998.

JAN GRAHAM
Attorney General



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CERTIFICATE OF SERVICE

I hereby certify that two copies of the foregoing Brief of Appellee were mailed by first-class mail this 6 January 1998 to the following:

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ADDENDA

Addendum A

76-5-303. Custodial interference.

(1) A person, whether a parent or other, is guilty of custodial interference if, without good cause, the actor takes, entices, conceals, or detains a child under the age of 16 from its parent, guardian, or other lawful custodian:

- (a) knowing the actor has no legal right to do so; and
- (b) with intent to hold the child for a period substantially longer than the visitation or custody period previously awarded by a court of competent jurisdiction.

(2) A person, whether a parent or other, is guilty of custodial interference if, having actual physical custody of a child under the age of 16 pursuant to a judicial award of any court of competent jurisdiction which grants to another person visitation or custody rights, and without good cause the actor conceals or detains the child with intent to deprive the other person of lawful visitation or custody rights.

(3) Custodial interference is a class A misdemeanor unless the child is removed and taken from one state to another, in which case it is a felony of the third degree.

76-1-403. Former prosecution barring subsequent prosecution for offense out of same episode.

(1) If a defendant has been prosecuted for one or more offenses arising out of a single criminal episode, a subsequent prosecution for the same or a different offense arising out of the same criminal episode is barred if:

(a) The subsequent prosecution is for an offense that was or should have been tried under Subsection 76-1-402(2) in the former prosecution; and

(b) The former prosecution:

(i) resulted in acquittal; or

(ii) resulted in conviction; or

(iii) was improperly terminated; or

(iv) was terminated by a final order or judgment for the defendant that has not been reversed, set aside, or vacated and that necessarily required a determination inconsistent with a fact that must be established to secure conviction in the subsequent prosecution.

(2) There is an acquittal if the prosecution resulted in a finding of not guilty by the trier of facts or in a determination that there was insufficient evidence to warrant conviction. A finding of guilty of a lesser included offense is an acquittal of the greater offense even though the conviction for the lesser included offense is subsequently reversed, set aside, or vacated.

(3) There is a conviction if the prosecution resulted in a judgment of guilt that has not been reversed, set aside, or vacated; a verdict of guilty that has not been reversed, set aside, or vacated and that is capable of supporting a judgment; or a plea of guilty accepted by the court.

(4) There is an improper termination of prosecution if the termination takes place before the verdict, is for reasons not amounting to an acquittal, and takes place after a jury has been impanelled and sworn to try the defendant, or, if the jury trial is waived, after the first witness is sworn. However, termination of prosecution is not improper if:

(a) The defendant consents to the termination; or

(b) The defendant waives his right to object to the termination;

(c) The court finds and states for the record that the termination is necessary because:

(i) It is physically impossible to proceed with the trial in conformity with the law; or

(ii) There is a legal defect in the proceeding not attributable to the state that would make any judgment entered upon a verdict reversible as a matter of law; or

(iii) Prejudicial conduct in or out of the courtroom not attributable to the state makes it impossible to proceed with the trial without injustice to the defendant or the state; or

(iv) The jury is unable to agree upon a verdict; or

(v) False statements of a juror on voir dire prevent a fair trial.

History: C. 1953, 76-1-403, enacted by L.
1973, ch. 196, § 76-1-403; 1974, ch. 32, § 3.

78-22-4. Mileage allowance for judgment debtor required to appear.

Every judgment debtor legally required to appear before a circuit or district court or a master to answer concerning his, her, or its property is entitled, on a sufficient showing of need, to mileage of 15 cents per mile for each mile actually and necessarily traveled in going only, to be paid by the judgment creditor at whose instance the judgment debtor was required to appear, but the judgment creditor is not required to make any payment for such mileage until the judgment debtor has actually appeared before the court or master.

History: L. 1983, ch. 159, § 1.

CHAPTER 22a

FOREIGN JUDGMENT ACT

Section		Section	
78-22a-1.	Short title.	78-22a-5.	Lien.
78-22a-2.	Definition — Filing and status of foreign judgments.	78-22a-6.	Optional procedure.
78-22a-3.	Notice of filing.	78-22a-7.	Fees.
78-22a-4.	Stay.	78-22a-8.	Uniformity of interpretation.

78-22a-1. Short title.

This chapter shall be known and may be cited as the "Utah Foreign Judgment Act."

History: C. 1953, 78-22a-1, enacted by L. 1983, ch. 169, § 1.

78-22a-2. Definition — Filing and status of foreign judgments.

(1) As used in this chapter, "foreign judgment" means any judgment, decree, or order of a court of the United States or of any other court whose acts are entitled to full faith and credit in this state.

(2) A copy of a foreign judgment authenticated in accordance with an appropriate act of Congress or an appropriate act of Utah may be filed with the clerk of any district court in Utah. The clerk of the district court shall treat the foreign judgment in all respects as a judgment of a district court of Utah.

(3) A foreign judgment filed under this chapter has the same effect and is subject to the same procedures, defenses, enforcement, satisfaction, and proceedings for reopening, vacating, setting aside, or staying as a judgment of a district court of this state.

History: C. 1953, 78-22a-2, enacted by L. 1983, ch. 169, § 1; 1991, ch. 169, § 1.

Amendment Notes. — The 1991 amendment, effective April 29, 1991, substituted "clerk" for "county clerk" and "district court"

for "county" in the first sentence in Subsection (2), added the Subsection (3) designation, inserted "foreign" before "judgment" in Subsection (3), and made stylistic changes in Subsections (1) and (3).

NOTES TO DECISIONS

ANALYSIS

Dormant judgment.
Limitation of actions.
Setting aside foreign judgments.
Cited.

Dormant judgment.

If a foreign judgment is filed in Utah and subsequently becomes dormant in the state of rendition, its enforceability in this state is not affected. *Pan Energy v. Martin*, 813 P.2d 1142 (Utah 1991).

Limitation of actions.

At least for purposes of enforcement, the filing of a foreign judgment under Subsection (2)

creates a new Utah judgment which is governed by the Utah statute of limitations. *Pan Energy v. Martin*, 813 P.2d 1142 (Utah 1991).

Setting aside foreign judgments.

Neither the Utah Foreign Judgment Act (this chapter), nor Rule 60(b)(1), U.R.C.P., permits a court to set aside a foreign default judgment because of alleged inadvertence, mistake, or neglect absent a showing of fraud or the lack of jurisdiction or due process in the rendering state. *Data Mgt. Sys. v. EDP Corp.*, 709 P.2d 377 (Utah 1985).

Cited in *Bradford v. Nagle*, 763 P.2d 791 (Utah 1988).

COLLATERAL REFERENCES

A.L.R. — Judgment subject to appeal as entitled to full faith and credit, 2 A.L.R.3d 1384.

78-22a-3. Notice of filing.

(1) The judgment creditor or attorney for the creditor, at the time of filing a foreign judgment, shall file an affidavit with the clerk of the district court stating the last known post-office address of the judgment debtor and the judgment creditor.

(2) Upon the filing of a foreign judgment and affidavit, the clerk of the district court shall notify the judgment debtor that the judgment has been filed. Notice shall be sent to the address stated in the affidavit. The clerk shall record the date the notice is mailed in the register of actions. The notice shall include the name and post-office address of the judgment creditor and the name and address of the judgment creditor's attorney, if any.

(3) No execution or other process for the enforcement of a foreign judgment filed under this chapter may issue until 30 days after the judgment is filed.

History: C. 1953, 78-22a-3, enacted by L. 1983, ch. 169, § 1; L. 1984, ch. 36, § 1; 1986, ch. 172, § 1.

78-22a-4. Stay.

(1) If an appeal from a foreign judgment is pending, the time for appeal has not expired, or a stay of execution has been granted, the court, upon proof that the judgment debtor has furnished security for satisfaction of the judgment in the state in which the judgment was rendered shall stay enforcement of the judgment until the appeal is concluded, the time for appeal expires, or until the stay of execution expires or is vacated.

(2) If the foreign judgment debtor, upon motion, shows the district court any ground upon which enforcement of a judgment of a district court of this state would be stayed, the court shall stay enforcement of the foreign judgment upon the posting of security in the kind and amount required to stay enforcement of a domestic judgment.

History: C. 1953, 78-22a-4, enacted by L.
1983, ch. 169, § 1.

78-22a-5. Lien.

(1) A foreign judgment filed under this chapter becomes a lien as provided in Section 78-22-1 if a stay of execution has not been granted.

(2) If the requirements of this chapter are satisfied, the foreign judgment becomes a lien upon the judgment debtor's property on the date it is docketed.

History: C. 1953, 78-22a-5, enacted by L.
1983, ch. 169, § 1; L. 1984, ch. 36, § 2; 1986,
ch. 172, § 2.

78-22a-6. Optional procedure.

This chapter shall not be construed to impair a judgment creditor's right to bring an action in this state to enforce such creditor's judgment.

History: C. 1953, 78-22a-6, enacted by L.
1983, ch. 169, § 1.

78-22a-7. Fees.

Fees for docketing, transcription, and other enforcement proceedings with respect to foreign judgments shall be as provided in Sections 78-3-16.5, 21-2-3, and 21-2-4.

History: C. 1953, 78-22a-7, enacted by L. ment, effective July 1, 1990, substituted
1983, ch. 169, § 1; 1990, ch. 128, § 12. "78-3-16.5" for "21-2-2."
Amendment Notes. — The 1990 amend-

78-22a-8. Uniformity of interpretation.

This chapter shall be construed to effectuate the general purpose to make uniform the law of those states which enact it.

History: C. 1953, 78-22a-8, enacted by L.
1983, ch. 169, § 1.

CHAPTER 22b

UNIFORM FOREIGN-MONEY CLAIMS ACT

Section		Section	
78-22b-101.	Short title.	78-22b-106.	Determining the amount of the money of certain contract claims.
78-22b-102.	Definitions.	78-22b-107.	Asserting and defending a foreign-money claim.
78-22b-103.	Scope.	78-22b-108.	Judgments and awards on for-
78-22b-104.	Variation by agreement.		
78-22b-105.	Determining the money of the claim.		

Section		Section	
	Information exchange — Stay of proceeding on notice of another proceeding.		— Prerequisites — Factors considered.
78-45c-7.	Declining jurisdiction on finding of inconvenient forum — Factors in determination — Communication with other court — Awarding costs.	78-45c-15.	Filing foreign decree — Effect — Enforcement — Award of expenses.
78-45c-8.	Misconduct of petitioner as basis for refusing jurisdiction — Notice to another jurisdiction — Ordering petitioner to appear in other court or to return child — Awarding costs.	78-45c-16.	Registry maintained by clerk of court — Documents entered.
78-45c-9.	Information as to custody of child and litigation concerning required in pleadings — Verification — Continuing duty to inform court.	78-45c-17.	Certified copies of decrees furnished by clerk of court.
78-45c-10.	Joinder of persons having custody or claiming custody or visitation rights.	78-45c-18.	Taking testimony of persons in other states.
78-45c-11.	Ordering party to appear — Enforcement — Out-of-state party — Travel and other expenses.	78-45c-19.	Request to court of another state to take evidence, to make studies or to order appearance of party — Payment of costs.
78-45c-12.	Parties bound by custody decree — Conclusive unless modified.	78-45c-20.	Taking evidence for use in court of another state — Ordering appearance in another state — Costs — Enforcement.
78-45c-13.	Recognition and enforcement of foreign decrees.	78-45c-21.	Preservation of records of proceedings — Furnishing copies to other state courts.
78-45c-14.	Modification of foreign decree	78-45c-22.	Requesting court records from another state.
		78-45c-23.	Foreign countries — Application of general policies.
		78-45c-24.	Priority on court calendar.
		78-45c-25.	Notices — Orders to appear — Manner of service.
		78-45c-26.	Short title.

78-45c-1. Purposes — Construction.

(1) The general purposes of this act are to:

(a) avoid jurisdiction competition and conflict with courts of other states in matters of child custody which have in the past resulted in the shifting of children from state to state with harmful effects on their well-being;

(b) promote cooperation with the courts of other states to the end that a custody decree is rendered in that state which can best decide the case in the interest of the child;

(c) assure that litigation concerning the custody of a child take place ordinarily in the state with which the child and his family have the closest connection and where significant evidence concerning his care, protection, training, and personal relationships is most readily available, and that courts of this state decline the exercise of jurisdiction when the child and his family have a closer connection with another state;

(d) discourage continuing controversies over child custody in the interest of greater stability of home environment and of secure family relationships for the child;

(e) deter abductions and other unilateral removals of children undertaken to obtain custody awards;

(f) avoid relitigation of custody decisions of other states in this state insofar as feasible;

- (g) facilitate the enforcement of custody decrees of other states;
 - (h) promote and expand the exchange of information and other forms of mutual assistance between the courts of this state and those of other states concerned with the same child; and
 - (i) to make uniform the law of those states which enact it.
- (2) This title shall be construed to promote the general purposes stated in this section.

History: L. 1980, ch. 41, § 1.

Meaning of "this act." — The term "this

act," as used in this section, means Laws 1980, ch. 41, which enacted this chapter.

COLLATERAL REFERENCES

A.L.R. — Validity, construction, and application of Uniform Child Custody Jurisdiction Act, 96 A.L.R.3d 968.

Kidnapping or related offense by taking or removing of child by or under authority of parent or one in loco parentis, 20 A.L.R.4th 823.

Attorneys' fee awards in parent-nonparent child custody cases, 45 A.L.R.4th 212.

State court's authority, in marital or child custody proceeding, to allocate federal income tax dependency exemption for child to noncustodial parent under § 152(e) of the Internal Revenue Code (26 USCS § 152(e)), 77 A.L.R.4th 786.

Applicability of Uniform Child Custody Jurisdiction Act (UCCJA) to temporary custody orders, 81 A.L.R.4th 1101.

Rights and obligations resulting from human artificial insemination, 83 A.L.R.4th 296.

Child custody: when does state that issued previous custody determination have continuing jurisdiction under Uniform Child Custody Jurisdiction Act (UCCJA) or Parental Kidnapping Prevention Act (PKPA), 28 USCS § 1738A, 83 A.L.R.4th 742.

Parental rights of man who is not biological or adoptive father of child but was husband or cohabitant of mother when child was conceived or born, 84 A.L.R.4th 655.

Child custody and visitation rights of person infected with AIDS, 86 A.L.R.4th 211.

78-45c-2. Definitions.

As used in this act:

(1) "Contestant" means a person, including a parent, who claims a right to custody or visitation rights with respect to a child;

(2) "Custody determination" means a court decision and court orders and instructions providing for the custody of a child, including visitation rights; it does not include a decision relating to child support or any other monetary obligation of any person;

(3) "Custody proceeding" includes proceedings in which a custody determination is one of several issues, such as an action for dissolution of marriage, or legal separation, and includes child neglect and dependency proceedings;

(4) "Decree" or "custody decree" means a custody determination contained in a judicial decree or order made in a custody proceeding, and includes an initial decree and a modification decree;

(5) "Home state" means the state in which the child immediately preceding the time involved lived with his parents, a parent, or a person acting as parent, for at least six consecutive months, and in the case of a child less than six months old the state in which the child lived from birth with any of the persons mentioned. Periods of temporary absence of any of the named persons are counted as part of the six-month or other period;

(6) "Initial decree" means the first custody decree concerning a particular child;

(7) "Modification decree" means a custody decree which modifies or replaces a prior decree, whether made by the court which rendered the prior decree or by another court;

(8) "Physical custody" means actual possession and control of a child;

(9) "Person acting as parent" means a person, other than a parent, who has physical custody of a child and who has either been awarded custody by the court or claims a right to custody; and

(10) "State" means any state, territory or possession of the United States, the Commonwealth of Puerto Rico, and the District of Columbia.

History: L. 1980, ch. 41, § 2.

Meaning of "this act." — See note following same catchline in notes to § 78-45c-1.

COLLATERAL REFERENCES

A.L.R. — What types of proceedings or terminations are governed by the Uniform Child Custody Jurisdiction Act (UCCJA) or the Parental Kidnapping Prevention Act (PKPA), 78 A.L.R.4th 1028.

78-45c-3. Bases of jurisdiction in this state.

(1) A court of this state which is competent to decide child custody matters has jurisdiction to make a child custody determination by initial or modification decree if the conditions as set forth in any of the following paragraphs are met:

(a) this state:

(i) is the home state of the child at the time of commencement of the proceeding; or

(ii) had been the child's home state within six months before commencement of the proceeding and the child is absent from this state because of his removal or retention by a person claiming his custody or for other reasons, and a parent or person acting as parent continues to live in this state;

(b) it is in the best interest of the child that a court of this state assume jurisdiction because:

(i) the child and his parents, or the child and at least one contestant, have a significant connection with this state; and

(ii) there is available in this state substantial evidence concerning the child's present or future care, protection, training, and personal relationships;

(c) the child is physically present in this state or this state is the most recent domicile of the mother prior to the birth of the child, and:

(i) the child has been abandoned; or

(ii) it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent; or

(d) (i) it appears that no other state would have jurisdiction under prerequisites substantially in accordance with Subsection (1)(a), (b), or (c), or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine the custody of the child; and

(ii) it is in the best interest of the child that this court assume jurisdiction.

(2) Except under Subsections (1)(c) and (d), physical presence in this state of the child, or of the child and one of the contestants, is not alone sufficient to confer jurisdiction on a court of this state to make a child custody determination.

(3) Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine his custody.

History: L. 1980, ch. 41, § 3; 1990, ch. 143, § 1.

Amendment Notes. — The 1990 amendment, effective April 23, 1990, added "or this state is the most recent domicile of the mother

prior to the birth of the child," at the end of the introductory paragraph in Subsection (1)(c) and made stylistic changes and changes in punctuation throughout.

NOTES TO DECISIONS

ANALYSIS

Appropriate forum.
Emergency jurisdiction.
—Permanent custody.

Appropriate forum.

Utah district court appropriately retained jurisdiction under the Utah Uniform Child Custody Jurisdiction Act to make any determinations regarding custody, visitation or other matters relevant to the children, where the parents were divorced in Utah and, although the mother had taken the children to Washington, that state specifically declined to exercise jurisdiction because of Utah's past and present involvement with the matter. *Rawlings v. Weiner*, 752 P.2d 1327 (Utah Ct. App.), cert. denied, 765 P.2d 1278 (Utah 1988).

This chapter does not give a preference to the "home state." The significant connection or substantial connection basis comes into play either when the home state test cannot be met or as an alternative to that test. In *re W.D. v. Drake*, 770 P.2d 1011 (Utah Ct. App.), cert. denied, 789 P.2d 33 (Utah 1989).

Even though a certain state may be the "home state," if the child and his family have equal or stronger ties with another state that other state also has jurisdiction. In *re W.D. v.*

Drake, 770 P.2d 1011 (Utah Ct. App.), cert. denied, 789 P.2d 33 (Utah 1989).

Judge did not abuse his discretion in deciding that California was the more appropriate and convenient forum to litigate custody and in granting the state's motion to dismiss the natural parents' petition, where substantial information concerning the parents' abilities and past history was in California, the mother had only recently come to Utah but had lived for years in California, and the parents' purpose in coming to Utah was to shop for jurisdiction. In *re W.D. v. Drake*, 770 P.2d 1011 (Utah Ct. App.), cert. denied, 789 P.2d 33 (Utah 1989).

Emergency jurisdiction.

Emergency jurisdiction under Subsection (1)(c) is reserved for extraordinary circumstances. Emergency jurisdiction should be limited to those cases of neglect where the harm is immediate or imminent. In *re D.S.K.*, 792 P.2d 118 (Utah Ct. App. 1990).

—Permanent custody.

An assumption of emergency jurisdiction is an assumption of temporary jurisdiction only; it does not confer upon the state the authority to make a permanent custody disposition. In *re D.S.K.*, 792 P.2d 118 (Utah Ct. App. 1990).

78-45c-4. Persons to be notified and heard.

Before making a decree under this act, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated, and any person who has physical custody of the child. If any of these persons is outside this state, notice and opportunity to be heard shall be given pursuant to Section 78-45c-5.

History: L. 1980, ch. 41, § 4.

Meaning of "this act." — See note following same catchline in notes to § 78-45c-1.

**78-45c-5. Service of notice outside state — Proof of service
— Submission to jurisdiction.**

(1) Notice required for the exercise of jurisdiction over a person outside this state shall be given in a manner reasonably calculated to give actual notice, and may be made in any of the following ways:

(a) by personal delivery outside this state in the manner prescribed for service of process within this state;

(b) in the manner prescribed by the law of the place in which the service is made for service of process in that place in an action in any of its courts of general jurisdiction;

(c) by any form of mail addressed to the person to be served and requesting a receipt; or

(d) as directed by the court (including publication, if other means of notification are ineffective).

(2) Notice under this section shall be served, mailed, delivered, or last published at least 10 days before any hearing in this state.

(3) Proof of service outside this state may be made by affidavit of the individual who made the service, or in the manner prescribed by the law of this state, the order pursuant to which the service is made, or the law of the place in which the service is made. If service is made by mail, proof may be a receipt signed by the addressee or other evidence of delivery to the addressee.

(4) Notice is not required if a person submits to the jurisdiction of the court.

History: L. 1980, ch. 41, § 5.

Cross-References. — Service of process,
Rule 4, U.R.C.P.

**78-45c-6. Proceedings pending elsewhere — Jurisdiction
not exercised — Inquiry to other state — Information exchange — Stay of proceeding on notice
of another proceeding.**

(1) A court of this state shall not exercise its jurisdiction under this act if at the time of filing the petition a proceeding concerning the custody of the child was pending in a court of another state exercising jurisdiction substantially in conformity with this act, unless the proceeding is stayed by the court of the other state because this state is a more appropriate forum or for other reasons.

(2) Before hearing the petition in a custody proceeding the court shall examine the pleadings and other information supplied by the parties under Section 78-45c-10 and shall consult the child custody registry established under Section 78-45c-16 concerning the pendency of proceedings with respect to the child in other states. If the court has reason to believe that proceedings may be pending in another state it shall direct an inquiry to the state court administrator or other appropriate official of the other state.

(3) If the court is informed during the course of the proceeding that a proceeding concerning the custody of the child was pending in another state

before the court assumed jurisdiction it shall stay the proceeding and communicate with the court in which the other proceeding is pending to the end that the issue may be litigated in the more appropriate forum and that information be exchanged in accordance with Sections 78-45c-19 through 78-45c-22. If a court of this state has made a custody decree before being informed of a pending proceeding in a court of another state it shall immediately inform that court of the fact. If the court is informed that a proceeding was commenced in another state after it assumed jurisdiction it shall likewise inform the other court to the end that the issues may be litigated in the more appropriate forum.

History: L. 1980, ch. 41, § 6.

Meaning of "this act." — See note following same catchline in notes to § 78-45c-1.

NOTES TO DECISIONS

ANALYSIS

Pending foreign proceeding.
—Stay of Utah action.
Proceedings elsewhere.

Pending foreign proceeding.

—Stay of Utah action.

Utah district court, after learning of prior guardianship proceedings in Oregon, was required to stay a Utah action seeking to determine child custody and to communicate with the Oregon court to determine the propriety of further proceedings in Oregon, so that the is-

ssues could be litigated in the more appropriate forum, where the child resided in Oregon at the time and the Oregon court had appointed the child's grandparents as guardians. *Coppedge v. Harding*, 714 P.2d 1121 (Utah 1985).

Proceedings elsewhere.

Where grandparents in Oregon, with whom child was visiting, had won custody in Oregon court, Utah district court was required to stay parents' proceeding seeking custody determination and to communicate with Oregon court to determine the propriety of further proceedings in Oregon. *Coppedge v. Harding*, 714 P.2d 1121 (Utah 1985).

COLLATERAL REFERENCES

A.L.R. — What types of proceedings or determinations are governed by the Uniform Child Custody Jurisdiction Act (UCCJA) or the

Parental Kidnapping Prevention Act (PKPA), 78 A.L.R.4th 1028.

78-45c-7. Declining jurisdiction on finding of inconvenient forum — Factors in determination — Communication with other court — Awarding costs.

(1) A court which has jurisdiction under this act to make an initial or modification decree may decline to exercise its jurisdiction any time before making a decree if it finds that it is an inconvenient forum to make a custody determination under the circumstances of the case and that a court of another state is a more appropriate forum.

(2) A finding of inconvenient forum may be made upon the court's own motion or upon motion of a party or a guardian ad litem or other representative of the child.

(3) In determining if it is an inconvenient forum, the court shall consider if it is in the interest of the child that another state assume jurisdiction. For this purpose it may take into account the following factors, among others:

(a) if another state is or recently was the child's home state;

(b) if another state has a closer connection with the child and his family or with the child and one or more of the contestants;

(c) if substantial evidence concerning the child's present or future care, protection, training, and personal relationships is more readily available in another state;

(d) if the parties have agreed on another forum which is no less appropriate; and

(e) if the exercise of jurisdiction by a court of this state would contravene any of the purposes stated in Section 78-45c-1.

(4) Before determining whether to decline or retain jurisdiction the court may communicate with a court of another state and exchange information pertinent to the assumption of jurisdiction by either court with a view to assuring that jurisdiction will be exercised by the more appropriate court and that a forum will be available to the parties.

(5) If the court finds that it is an inconvenient forum and that a court of another state is a more appropriate forum, it may dismiss the proceedings, or it may stay the proceedings upon condition that a custody proceeding be promptly commenced in another named state or upon any other conditions which may be just and proper, including the condition that a moving party stipulate his consent and submission to the jurisdiction of the other forum.

(6) The court may decline to exercise its jurisdiction under this act if a custody determination is incidental to an action for divorce or another proceeding while retaining jurisdiction over the divorce or other proceeding.

(7) If it appears to the court that it is clearly an inappropriate forum it may require the party who commenced the proceedings to pay, in addition to the costs of the proceedings in this state, necessary travel and other expenses, including attorney's fees, incurred by other parties or their witnesses. Payment is to be made to the clerk of the court for remittance to the proper party.

(8) Upon dismissal or stay of proceedings under this section the court shall inform the court found to be the more appropriate forum of this fact, or if the court which would have jurisdiction in the other state is not certainly known, shall transmit the information to the court administrator or other appropriate official for forwarding to the appropriate court.

(9) Any communication received from another state informing this state of a finding of inconvenient forum because a court of this state is the more appropriate forum shall be filed in the custody registry of the appropriate court. Upon assuming jurisdiction the court of this state shall inform the original court of this fact.

History: L. 1980, ch. 41, § 7.

Meaning of "this act." — See note following same catchline in notes to § 78-45c-1.

NOTES TO DECISIONS

ANALYSIS

Appropriate forum elsewhere.
Communication with other court.
— Written record.
Cited.

Appropriate forum elsewhere.
Judge did not abuse his discretion in decid-

ing that California was the more appropriate and convenient forum to litigate custody and in granting the state's motion to dismiss the natural parents' petition, where substantial information concerning the parents' abilities and past history was in California, the mother had only recently come to Utah but had lived for years in California, and the parents' purpose in

coming to Utah was to shop for jurisdiction. In re W.D. v. Drake, 770 P.2d 1011 (Utah Ct. App.), cert. denied, 789 P.2d 33 (Utah 1990).

Communication with other court.

—Written record.

When judges communicate by telephone, they should make a prompt written record of

their conclusions and the basis for any agreement should be set forth clearly in the record. In re D.S.K., 792 P.2d 118 (Utah Ct. App. 1990).

Cited in Trent v. Trent, 735 P.2d 382 (Utah 1987); Rawlings v. Weiner, 752 P.2d 1327 (Utah Ct. App. 1988).

78-45c-8. Misconduct of petitioner as basis for refusing jurisdiction — Notice to another jurisdiction — Ordering petitioner to appear in other court or to return child — Awarding costs.

(1) If the petitioner for an initial decree has wrongfully taken the child from another state or has engaged in similar reprehensible conduct the court may decline to exercise jurisdiction for purposes of adjudication of custody if this is just and proper under the circumstances.

(2) Unless required in the interest of the child, the court shall not exercise its jurisdiction to modify a custody decree of another state if the petitioner, without consent of the person entitled to custody has improperly removed the child from the physical custody of the person entitled to custody or has improperly retained the child after a visit or other temporary relinquishment of physical custody. If the petitioner has violated any other provision of a custody decree of another state the court may decline to exercise its jurisdiction if this is just and proper under the circumstances.

(3) Where the court declines to exercise jurisdiction upon petition for an initial custody decree pursuant to Subsection (1), the court shall notify the parent or other appropriate person and the prosecuting attorney of the appropriate jurisdiction in the other state. If a request to that effect is received from the other state, the court shall order the petitioner to appear with the child in a custody proceeding instituted in the other state in accordance with Section 78-45c-20. If no such request is made within a reasonable time after such notification, the court may entertain a petition to determine custody by the petitioner if it has jurisdiction pursuant to Section 78-45c-2 [78-45c-3].

(4) Where the court refuses to assume jurisdiction to modify the custody decree of another state pursuant to Subsection (2) or pursuant to Section 78-45c-14, the court shall notify the person who has legal custody under the decree of the other state and the prosecuting attorney of the appropriate jurisdiction in the other state and may order the petitioner to return the child to the person who has legal custody. If it appears that the order will be ineffective and the legal custodian is ready to receive the child within a period of a few days, the court may place the child in a foster care home for such period, pending return of the child to the legal custodian. At the same time, the court shall advise the petitioner that any petition for modification of custody must be directed to the appropriate court of the other state which has continuing jurisdiction, or, in the event that that court declines jurisdiction, to a court in a state which has jurisdiction pursuant to Section 78-45c-3.

(5) In appropriate cases a court dismissing a petition under this section may charge the petitioner with necessary travel and other expenses, including attorney's fees and the cost of returning the child to another state.

History: L. 1980, ch. 41, § 8.

NOTES TO DECISIONS

ANALYSIS

Misconduct of petitioner.
Cited.

Misconduct of petitioner.

Fact that children were present in county of residence of father who brought action to modify the child custody provisions of a foreign divorce decree did not make the father's county

of residence the proper venue for the action since the children's presence was the result of the father's wrongful refusal to return the children to their mother, who had custody under the decree, after a visitation period. *Angell v. Sixth Judicial Dist. Court*, 656 P.2d 405 (Utah 1982).

Cited in *Coppedge v. Harding*, 714 P.2d 1121 (Utah 1985).

78-45c-9. Information as to custody of child and litigation concerning required in pleadings — Verification — Continuing duty to inform court.

(1) Every party in a custody proceeding in his first pleading or in an affidavit attached to that pleading shall give information under oath as to the child's present address, the places where the child has lived within the last five years, and the names and present addresses of the persons with whom the child has lived during that period. In this pleading or affidavit every party shall further declare under oath as to each of the following whether:

(a) he has participated, as a party, witness, or in any other capacity, in any other litigation concerning the custody of the same child in this or any other state;

(b) he has information of any custody proceeding concerning the child pending in a court of this or any other state; and

(c) he knows of any person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the child.

(2) If the declaration as to any of the above items is in the affirmative the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and as to other matters pertinent to the court's jurisdiction and the disposition of the case.

(3) Each party has a continuing duty to inform the court of any custody proceeding concerning the child in this or any other state of which he obtained information during this proceeding.

History: L. 1980, ch. 41, § 9.

78-45c-10. Joinder of persons having custody or claiming custody or visitation rights.

If the court learns from information furnished by the parties pursuant to Section 78-45c-9 or from other sources that a person not a party to the custody proceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child, it shall order that person to be joined as a party and to be duly notified of the pendency of the proceeding and of his joinder as a party. If the person joined as a party is outside this state he

shall be served with process or otherwise notified in accordance with Section 78-45c-5.

History: L. 1980, ch. 41, § 10.

**78-45c-11. Ordering party to appear — Enforcement —
Out-of-state party — Travel and other expenses.**

(1) The court may order any party to the proceeding who is in this state to appear personally before the court. If that party has physical custody of the child the court may order that he appear personally with the child. If the party who is ordered to appear with the child cannot be served or fails to obey the order, or it appears the order will be ineffective, the court may issue a warrant of arrest against such party to secure his appearance with the child.

(2) If a party to the proceeding whose presence is desired by the court is outside this state with or without the child the court may order that the notice given under Section 78-45c-5 include a statement directing that party to appear personally with or without the child and declaring that failure to appear may result in a decision adverse to that party.

(3) If a party to the proceeding who is outside this state is directed to appear under Subsection (2) or desires to appear personally before the court with or without the child, the court may require another party to pay to the clerk of the court travel and other necessary expenses of the party so appearing and of the child if this is just and proper under the circumstances.

History: L. 1980, ch. 41, § 11.

**78-45c-12. Parties bound by custody decree — Conclusive
unless modified.**

A custody decree rendered by a court of this state which had jurisdiction under Section 78-45c-3, binds all parties who have been served in this state or notified in accordance with Section 78-45c-5 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to these parties the custody decree is conclusive as to all issues of law and fact decided and as to the custody determination made unless and until that determination is modified pursuant to law, including the provisions of this act.

History: L. 1980, ch. 41, § 12.

Meaning of "this act." — See note following same catchline in notes to § 78-45c-1.

COLLATERAL REFERENCES

A.L.R. — Liability of legal or natural parent, or one who aids and abets, for damages resulting from abduction of own child, 49 A.L.R.4th 7.

78-45c-13. Recognition and enforcement of foreign decrees.

The courts of this state shall recognize and enforce an initial or modification decree of a court of another state which had assumed jurisdiction under statutory provisions substantially in accordance with this act or which was made under factual circumstances meeting the jurisdictional standards of the act, so long as this decree has not been modified in accordance with jurisdictional standards substantially similar to those of this act.

History: L. 1980, ch. 41, § 13.

Meaning of "this act." — See note following same catchline in notes to § 78-45c-1.

COLLATERAL REFERENCES

C.J.S. — 50 C.J.S. Judgments § 889.

78-45c-14. Modification of foreign decree — Prerequisites — Factors considered.

(1) If a court of another state has made a custody decree, a court of this state shall not modify that decree unless (a) it appears to the court of this state that the court which rendered the decree does not now have jurisdiction under jurisdictional prerequisites substantially in accordance with this act or has declined to assume jurisdiction to modify the decree and (b) the court of this state has jurisdiction.

(2) If a court of this state is authorized under Subsection (1) and Section 78-45c-8 to modify a custody decree of another state it shall give due consideration to the transcript of the record and other documents of all previous proceedings submitted to it in accordance with Section 78-45c-22.

History: L. 1980, ch. 41, § 14.

Meaning of "this act." — See note following same catchline in notes to § 78-45c-1.

NOTES TO DECISIONS

ANALYSIS

Communication with foreign court.
Lack of jurisdiction.
Cited.

Communication with foreign court.

Where Oregon court had already adjudicated custody issue and it appeared that Oregon's exercise of jurisdiction was proper, Utah district court was required to stay proceeding seeking custody determination and Oregon decree was not subject to modification until Utah court had communicated with Oregon court under § 78-45c-6(3) to determine the propriety of fur-

ther proceedings in Oregon. *Coppedge v. Harding*, 714 P.2d 1121 (Utah 1985).

Lack of jurisdiction.

A juvenile court lacked jurisdiction under either this chapter or the federal Parental Kidnapping Prevention Act of 1980 to modify permanently a Florida custody decree by awarding custody to the father; it improperly granted temporary custody to the father, after the mother had brought the children to Utah while divorce proceedings were pending in Florida. *In re D.S.K.*, 792 P.2d 118 (Utah Ct. App. 1990).

Cited in *Kelly v. Draney*, 754 P.2d 92 (Utah Ct. App. 1988).

78-45c-15. Filing foreign decree — Effect — Enforcement — Award of expenses.

(1) A certified copy of a custody decree of another state may be filed in the office of the clerk of any district court of this state. The clerk shall treat the decree in the same manner as a custody decree of the district court of this state. A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this state.

(2) A person violating a custody decree of another state which makes it necessary to enforce the decree in this state may be required to pay necessary travel and other expenses, including attorney's fees, incurred by the party entitled to the custody or his witnesses.

History: L. 1980, ch. 41, § 15.

COLLATERAL REFERENCES

A.L.R. — Attorneys' fee awards in parent-nonparent child custody case, 45 A.L.R.4th 212.

78-45c-16. Registry maintained by clerk of court — Documents entered.

The clerk of each district court shall maintain a registry in which he shall enter all of the following:

- (1) certified copies of custody decrees of other states received for filing;
- (2) communications as to the pendency of custody proceedings in other states;
- (3) communications concerning a finding of inconvenient forum by a court of another state; and
- (4) other communications or documents concerning custody proceedings in another state which may affect the jurisdiction of a court of this state or the disposition to be made by it in a custody proceeding.

History: L. 1980, ch. 41, § 16.

78-45c-17. Certified copies of decrees furnished by clerk of court.

The clerk of a district court of this state, at the request of the court of another state or at the request of any person who is affected by or has a legitimate interest in a custody decree, shall certify and forward a copy of the decree to that court or person.

History: L. 1980, ch. 41, § 17.

78-45c-18. Taking testimony of persons in other states.

In addition to other procedural devices available to a party, any party to the proceeding or a guardian ad litem or other representative of the child may adduce testimony of witnesses, including parties and the child, by deposition or otherwise, in another state. The court on its own motion may direct that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony shall be taken.

History: L. 1980, ch. 41, § 18.

78-45c-19. Request to court of another state to take evidence, to make studies or to order appearance of party — Payment of costs.

(1) A court of this state may request the appropriate court of another state to hold a hearing to adduce evidence, to order a party to produce or give evidence under other procedures of that state, or to have social studies made with respect to the custody of a child involved in proceedings pending in the court of this state; and to forward to the court of this state certified copies of the transcript of the record of the hearing, the evidence otherwise adduced, or any social studies prepared in compliance with the request. The cost of the services may be assessed against the parties.

(2) A court of this state may request the appropriate court of another state to order a party to custody proceedings pending in the court of this state to appear in the proceedings, and if that party has physical custody of the child, to appear with the child. The request may state that travel and other necessary expenses of the party and of the child whose appearance is desired will be assessed against another party or will otherwise be paid.

History: L. 1980, ch. 41, § 19.

78-45c-20. Taking evidence for use in court of another state — Ordering appearance in another state — Costs — Enforcement.

(1) Upon request of the court of another state the courts of this state which are competent to hear custody matters may order a person in this state to appear at a hearing to adduce evidence or to produce or give evidence under other procedures available in this state. A certified copy of the transcript of the record of the hearing or the evidence otherwise adduced shall be forwarded by the clerk of the court to the requesting court.

(2) A person within this state may voluntarily give his testimony or statement in this state for use in a custody proceeding outside this state.

(3) Upon request of the court of another state a competent court of this state may order a person in this state to appear alone or with the child in a custody proceeding in another state. The court may condition compliance with the request upon assurance by the other state that travel and other necessary expenses will be advanced or reimbursed. If the person who has physical custody of the child cannot be served or fails to obey the order, or it appears

the order will be ineffective, the court may issue a warrant of arrest against such person to secure his appearance with the child in the other state.

History: L. 1980, ch. 41, § 20.

78-45c-21. Preservation of records of proceedings — Furnishing copies to other state courts.

In any custody proceeding in this state the court shall preserve the pleadings, orders and decrees, any record that has been made of its hearings, social studies, and other pertinent documents until the child reaches 18 years of age. Upon appropriate request of the court of another state the court shall forward to the other court certified copies of any or all of such documents.

History: L. 1980, ch. 41, § 21.

78-45c-22. Requesting court records from another state.

If a custody decree has been rendered in another state concerning a child involved in a custody proceeding pending in a court of this state, the court of this state upon taking jurisdiction of the case shall request of the court of the other state a certified copy of the transcript of any court record and other documents mentioned in Section 78-45c-21.

History: L. 1980, ch. 41, § 22.

78-45c-23. Foreign countries — Application of general policies.

The general policies of this act extend to the international area. The provisions of this act relating to the recognition and enforcement of custody decrees of other states apply to custody decrees and decrees involving legal institutions similar in nature to custody rendered by appropriate authorities of other nations if reasonable notice and opportunity to be heard were given to all affected persons.

History: L. 1980, ch. 41, § 23.

Meaning of "this act." — See note following same catchline in notes to § 78-45c-1.

78-45c-24. Priority on court calendar.

Upon the request of a party to a custody proceeding which raises a question of existence or exercise of jurisdiction under this act the case shall be given calendar priority and handled expeditiously.

History: L. 1980, ch. 41, § 24.

Meaning of "this act." — See note following same catchline in notes to § 78-45c-1.

78-45c-25. Notices — Orders to appear — Manner of service.

(1) Whenever the terms of this act impose a duty upon the court to notify a party or court of a particular fact or action, such notification may be accomplished by the clerk of the court or a party to the action upon order of the court.

(2) Orders of the court for parties or persons to appear before the court in accordance with the terms of this act shall include legal and sufficient service of process in accordance with the Utah Rules of Civil Procedure unless otherwise ordered for good cause shown.

History: L. 1980, ch. 41, § 25.

Meaning of "this act." — See note following same catchline in notes to § 78-45c-1.

78-45c-26. Short title.

This act may be cited as the "Utah Uniform Child Custody Jurisdiction Act."

History: L. 1980, ch. 41, § 26.

Meaning of "this act." — See note following same catchline in notes to § 78-45c-1.

Uniform Laws. — All of the states and the District of Columbia have enacted the Uniform Child Custody Jurisdiction Act.

COLLATERAL REFERENCES

Am. Jur. 2d. — 42 Am. Jur. 2d §§ 33 to 41.

CHAPTER 45d

CHILD SUPPORT COLLECTION

(Repealed by Laws 1988, ch. 1, § 407.)

78-45d-1 to 78-45d-13. Repealed.

Repeals. — Laws 1988, ch. 1, § 407 repeals §§ 78-45d-1 to 78-45d-13, as enacted by Laws 1985, ch. 11, § 2 and Laws 1987, ch. 89, § 2, and as last amended by Laws 1987, ch. 89, §§ 1 and 3 to 10, relating to child support collection, effective January 19, 1988. For present comparable provisions, see §§ 62A-11-401 to 62A-11-414.

Addendum B

SCOTT M. BURNS (#4283)
Iron County Attorney
97 North Main, Suite #1
P.O. Box 428
Cedar City, Utah 84720
Telephone: (801) 586-6694
Telecopier: (801) 586-2737

5th Judicial District Court - Iron County

F I L E D

JAN 19 1996

CLERK
CLERK

IN THE FIFTH JUDICIAL DISTRICT COURT, IN AND FOR IRON COUNTY,
STATE OF UTAH

STATE OF UTAH,)	AMENDED INFORMATION
)	
Plaintiff,)	
)	
vs.)	
)	
ROBERT FRIIS,)	Criminal No. 951500586
d.o.b. 11/23/49,)	
)	Judge J. Philip Eves
Defendant.)	

The undersigned complainant, Scott M. Burns, Iron County Attorney, states on information and belief that the above-named Defendant, ROBERT FRIIS, committed the following crime, to wit:

CUSTODIAL INTERFERENCE, a Third-Degree, in violation of Title 76, Chapter 5, Section 303, Utah Code Annotated, 1953 as amended, in that on or about June 10, 1995, and until on or about August 20, 1995, in Iron County, State of Utah, the said Robert Friis did take, entice, conceal, or detain a child or children under the age of 16 from its parent, guardian, or lawful custodian knowing the actor has no legal right to do so; and with the intent to hold the child for a period substantially longer than the visitation or custody period previously awarded by a court of competent jurisdiction; and the child or children were removed and taken from one state to another.

This Information is based on evidence provided by Chief Wayne Townsend and Officer

Preston Griffiths of the Parowan Police Department and Lee and Linda Pace.

DATED this 16th day of January, 1996.

A handwritten signature in black ink, appearing to read "S. Burns", written over a horizontal line.

SCOTT M. BURNS
Iron County Attorney

Addendum C

NAME AND ADDRESS OF ATTORNEY: ALAN CARLISLE, ESQ (909) 944-8880 10601 CIVIC CENTER DR STE 200 RANCHO CUCAMONGA CA 91730-3804	TELEPHONE NO.:	OR COURT USE ONLY <div style="border: 2px solid black; padding: 5px; width: fit-content; margin: auto;"> 2-8-96 PLAINTIFF'S EXHIBIT P-1 #951500585 </div>
ATTORNEY FOR: ROBERT FRIIS Insert name of court, judicial district or branch court, if any, and Post Office and Street Address: SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO 8307 HAVEN AVE. RANCHO CUCAMONGA CA 91730		
PLAINTIFF: ROBERT E FRIIS		
DEFENDANT: LINDA M FRIIS		
EXEMPLIFICATION OF RECORD		Case Number: RFL 01543

STATE OF CALIFORNIA }
 COUNTY OF SAN BERNARDINO } ss.

I, the undersigned, Deputy Clerk of the above-entitled Court, do hereby certify and attest that the attached, consisting of
3 page(s), is a full, true, and correct copy of the original STIPULATION RE CUSTODY AND
VISITATION AND ORDER THEREON

on file in my office, and that I have fully compared the same with the original(s).

Dated JANUARY 23, 1996

(SEAL)

Sharon Sorrels

, Deputy Clerk

(SEAL)

STATE OF CALIFORNIA }
 COUNTY OF SAN BERNARDINO } ss.

I, the undersigned, Judge of the above-entitled Court, do hereby certify that SHARON SORRELS
 is the deputy clerk of the above-entitled court, which is a court of record having a seal; that the seal affixed thereto
 is the seal of said court; that the said clerk is the legal custodian of the original record(s) or document(s) described and
 referred to in the foregoing certificate and attestation; and that such certificate and attestation is in due form according
 to the laws of the State of California.

Dated JANUARY 23, 1996

Joseph E Johnston
 Judge of the Above-Entitled Court

STATE OF CALIFORNIA }
 COUNTY OF SAN BERNARDINO } ss.

I, the undersigned, Deputy Clerk of the above-entitled Court, which is a court of record having a seal, which seal is affixed
 hereto, do hereby certify that JOSEPH E JOHNSTON, whose name is subscribed to the foregoing
 certificate was, at the time of signing the same, Judge of the above-entitled court, and was duly commissioned,
 qualified, and authorized by law to execute said certificate, and that the signature to the foregoing certificate is the
 genuine signature of the judge above-named.

Sharon Sorrels

, Deputy Clerk

1 ALAN CARLISLE, ESQ.
2 10601 Civic Center Dr., Suite 200
3 Rancho Cucamonga, CA 91730-3804
4 (909) 944-8880
5 Attorney for ROBERT E. FRIIS

FILED - West District
San Bernardino County Clerk
FEB 09 1994
By Julie A. Lavoie Deputy

6 SUPERIOR COURT OF CALIFORNIA
7 COUNTY OF SAN BERNARDINO
8

9 In re Marriage of) CASE NO: RFL 01543
10 Petitioner: ROBERT E. FRIIS)
11 and) STIPULATION RE
12 Respondent: LINDA M. FRIIS) CUSTODY AND
13) VISITATION AND
14) ORDER THEREON

15 THE PARTIES TO THE WITHIN ACTION, THROUGH THEIR
16 RESPECTIVE COUNSEL, HEREBY STIPULATE THE COURT MAKE THE FOLLOWING
17 ORDERS:

18 THE COURT HEREBY ORDERS:

19 1. Legal custody of the minor child of the parties,
20 ROBERT DENIM FRIIS, born 12/13/93, is awarded jointly to the
21 parties. Mutual consent of both parties shall be required for the
22 major decisions relating to the child's health, education and
23 welfare. Failure to obtain consent may result in contempt action,
24 jail sentence, or change or loss of custody.

10
14/94
2

25 Primary physical custody for the care, custody and
26 control of minor child to be with Respondent; however, Petitioner
27 shall have physical care, custody and control of the minor child as

1 follows:

2 ~~XXXXXX From Saturday, XXXXXXXX XXXXXXXX XXXXXXXX XXXXXXXX~~
 3 ~~SUNDAY XXXXXXXX XXXXXXXX XXXXXXXX XXXXXXXX~~

4 a. Each month from the second Saturday at 8:00 AM to the
 5 third Sunday at 6:00 PM commencing February, 1994.

6 b. Christmas 1994, the entire Christmas school vacation,
 7 commencing 6:00 PM the last day of school before the vacation and
 8 ending 6:00 PM the day before school resumes, and thereafter on
 9 alternate years.

10 c. Thanksgiving vacation 1995, from 4:00 PM the day
 11 before said vacation to 6:00 PM the day before school resumes and
 12 thereafter on alternate years.

13 d. Summer vacation - 1994. An extra week in June, July
 14 and August, which will be contiguous with regular custody period.
 15 The decision as to whether it will be prior to or after regular
 16 custody period to be determined by the parties.

17 Summer vacation - commencing 1995. The first six
 18 (6) weeks of school vacation commencing 6:00 PM the last day before
 19 the vacation and ending at 6:00 PM on Sunday six weeks later.
 20 During said vacation period, at the end of three weeks, Respondent
 21 will have visitation from Friday at 4:00 PM until Sunday at 6:00
 22 PM.

23 During the second six weeks of school vacation, while
 24 custody is with Respondent, Petitioner will have weekend visitation
 25 from Friday at 4:00 PM until Sunday at 6:00 PM, during the mid-
 26 point of said period.

ALAN CARLISLE

9418880

P.01

13

Pick-up and delivery will be at the Police station in Parowan, Utah, with a 2 hour grace period. If either party anticipates a delay beyond that "window" they are required, as soon as is practical, to advise the Watch Commander at Parowan Police Department of said delay and revised estimated time of arrival.

Neither parent is to use disparaging remarks, nor allow any other person to use disparaging remarks, about the other parent in front of the child.

Neither parent is to use corporal punishment on the minor child.

Each parent should promote and encourage mutual respect and affection for the other parent. The child should be led to believe that it is appropriate for him to love and to value both mother and father.

Approved as to form and content.

Dated: 2-9-94

Alan Carlisle
ALAN CARLISLE
Attorney for Petitioner

Dated: 2-9-94

Richard Sholin
RICHARD SHOLIN
Attorney for Respondent

Dated: 2-9-94

Michael Darlington
MICHAEL DARLINGTON
Attorney for Minor child

IT IS SO ORDERED.

Dated: 2/9/94

Paul M. Bryant, Jr.
JUDGE OF THE SUPERIOR COURT
PAUL M. BRYANT, JR.

FR11S.3

0298

Addendum D

NAME AND ADDRESS OF ATTORNEY: RICHARD SMOLIN, ESQ LAW OFFICES OF RICHARD SMOLIN 4076 BROCKTON AVE RIVERSIDE, CA 92501 ATTORNEY FOR:	TELEPHONE NO.: (909) 928-1902	FOR COURT USE ONLY <div style="border: 2px solid black; padding: 5px; text-align: center;"> PLAINTIFF'S EXHIBIT <u>P-2</u> # 951500585 </div>
Insert name of court, judicial district or branch court, if any, and Post Office and Street Address: SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO 8307 HAVEN AVE. RANCHO CUCAMONGA CA 91730		
PLAINTIFF: ROBERT FRIIS		
DEFENDANT: LINDA FRIIS		
EXEMPLIFICATION OF RECORD		Case Number: RFL 01543

STATE OF CALIFORNIA }
 COUNTY OF SAN BERNARDINO } ss.

I, the undersigned, Deputy Clerk of the above-entitled Court, do hereby certify and attest that the attached, consisting of
16 page(s), is a full, true, and correct copy of the original JUDGMENT

on file in my office, and that I have fully compared the same with the original(s).

Dated JANUARY 23, 1996

(SEAL)

Sharon Sorrels

, Deputy Clerk

(SEAL)

STATE OF CALIFORNIA }
 COUNTY OF SAN BERNARDINO } ss.

I, the undersigned, Judge of the above-entitled Court, do hereby certify that SHARON SORRELS
 is the deputy clerk of the above-entitled court, which is a court of record having a seal; that the seal affixed thereto
 is the seal of said court; that the said clerk is the legal custodian of the original record(s) or document(s) described and
 referred to in the foregoing certificate and attestation; and that such certificate and attestation is in due form according
 to the laws of the State of California.

Dated JANUARY 23, 1996

[Signature]
 Judge of the Above-Entitled Court

STATE OF CALIFORNIA }
 COUNTY OF SAN BERNARDINO } ss.

I, the undersigned, Deputy Clerk of the above-entitled Court, which is a court of record having a seal, which seal is affixed
 hereto, do hereby certify that JOSEPH E JOHNSTON, whose name is subscribed to the foregoing
 certificate was, at the time of signing the same, Judge of the above-entitled court, and was duly commissioned,
 qualified, and authorized by law to execute said certificate; and that the signature to the foregoing certificate is the
 genuine signature of the judge above-named.

Sharon Sorrels

, Deputy Clerk

0297

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address) RICHARD SMOLIN, Esq. Law Offices of Richard Smolin 4076 Brockton Ave Riverside, CA 92501	TELEPHONE NO.: (909) 928-1902
ATTORNEY FOR (Name)- Petitioner SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Bernardino STREET ADDRESS: 4164 Brockton Ave MAILING ADDRESS: P. O. Box 431 CITY AND ZIP CODE: Riverside, CA 92501 BRANCH NAME: Family Law Annex	
MARRIAGE OF PETITIONER: ROBERT FRIIS RESPONDENT: LINDA FRIIS	
<div style="display: flex; justify-content: space-between;"> <div> JUDGMENT <input checked="" type="checkbox"/> Dissolution <input type="checkbox"/> Legal separation <input type="checkbox"/> Nullity <input type="checkbox"/> Status only <input type="checkbox"/> Reserving jurisdiction over termination of marital status Date marital status ends: UPON SIGNATURE OF THE JUDGE </div> <div style="text-align: right;"> MAY 8 1995 </div> </div>	

FILED - West District
San Bernardino County Clerk

MAY - 8 1995

[Signature]
Deputy

CASE NUMBER:
RFL 01543

7. This proceeding was heard as follows: ☒ default or uncontested ☐ by declaration under Civil Code, § 4511 ☐ contested
- a. Date: **10/12/94 & 3/30/95** Dept.: **11** Rm.: _____
- b. Judge (name): **DENNIS COLE** ☐ Temporary judge
- c. ☒ Petitioner present in court ☐ Attorney present in court (name): **IN PRO-PER**
- d. ☒ Respondent present in court ☒ Attorney present in court (name): **RICHARD SMOLIN, Esq.**
- e. ☐ Claimant present in court (name): _____ ☐ Attorney present in court (name): _____
2. The court acquired jurisdiction of the respondent on (date): **8/18/93**
☒ Respondent was served with process ☒ Respondent appeared
3. THE COURT ORDERS, GOOD CAUSE APPEARING:
- a. ☒ Judgment of dissolution be entered. Marital status is terminated and the parties are restored to the status of unmarried persons
 (1) ☒ on the following date (specify):
 (2) ☐ on a date to be determined on noticed motion of either party or on stipulation.
- b. ☐ Judgment of legal separation be entered.
- c. ☐ Judgment of nullity be entered. The parties are declared to be unmarried persons on the ground of (specify):
- d. ☐ Wife's former name be restored (specify):
- e. ☐ This judgment shall be entered nunc pro tunc as of (date):
- f. ☒ Jurisdiction is reserved over all other issues and all present orders remain in effect except as provided below.
- g. ☒ Other (specify): **On 10/12/94, the Honorable Judge D. Cole made certain findings reflected in the attached Order incorporated herein as though fully set forth. Among the Court's Findings and Orders, the Court, as a result of the bad faith actions of Petitioner, ordered the Petitioner's pleadings as to property only be stricken, and that the matter proceed by Default as to property issues. Custody and visitation was resolved by stipulation on 2/9/93. Please, see continuation of Item 3(g).**
- h. Jurisdiction is reserved to make other orders necessary to carry out this judgment.

Date: _____

JUDGE OF THE SUPERIOR COURT

4. Number of additional pages attached: _____

☐ Signature follows last attachment

NOTICE

Please review your will, insurance policies, retirement benefit plans, credit cards, other credit accounts and credit reports, and other matters you may want to change in view of the dissolution or annulment of your marriage, or your legal separation.

A debt or obligation may be assigned to one party as part of the division of property and debts, but if that party does not pay the debt or obligation, the creditor may be able to collect from the other party.

An earnings assignment will automatically be issued if child support, family support, or spousal support is ordered.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
CASE No. RFL01543

ATTACHMENT TO JUDGEMENT
CONTINUATION OF ITEM 3(G)

The issue of the status of the Marriage pursuant to a Motion to Bifurcate was heard and granted on 3/30/95.

A single, all inclusive, Judgement is submitted to the Court for signature on the defaulted issues, stipulated issues, and status.

FRIIS vs. FRIIS
JUDGEMENT - Case No. RFL01543

1 LAW OFFICES OF ATTORNEY
2 RICHARD SMOLIN
3 4255 MAIN STREET
4 RIVERSIDE, CALIFORNIA 92501
5 TELEPHONE (909) 928-1902

6
7
8 ATTORNEY FOR: LINDA FRIIS

9
10 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

11 ROBERT FRIIS)	Case No. RFL 01543
)	
12 Petitioner)	DEFAULT JUDGMENT
)	
13 VS.)	
)	
14 LINDA FRIIS)	
)	
Respondent)	

15
16 The court acquired jurisdiction over the respondent, Linda
17 Friis, on August 18, 1993. The parties were married on January
18 30, 1987, and separated on May 17, 1993, a period of 6 years and
19 five months. There is one minor child, Denum Friis, D.O.B.
20 December 13, 1990, born to this union. During the course of the
21 marriage, irremediable and irreconcilable differences have arisen
22 which have caused the total breakdown of the marriage.

23 On February 9, 1994, the parties entered into a stipulation
24 regarding permanent custody and visitation orders concerning the
25 minor child, Denum Friis. Based upon the parties' stipulation
26 dated 2/9/94, it shall be the Order of the Court, except as
27 modified by the court on 3/30/95, that:

28 "Legal custody of the minor child of the parties, ROBERT

1 DENUM FRIIS, born 12/13/93, is awarded jointly to the parties.
2 Mutual consent of both parties shall be required for the major
3 decisions relating to the child's health, education and welfare.
4 Failure to obtain consent may result in contempt action, jail
5 sentence, or change or loss of custody. Primary physical custody
6 for the care, custody and control of the minor child to be with
7 Respondent; however, Petitioner shall have physical care, custody
8 and control of the minor child as follows:

9 a). Each month from the second Saturday at 8:00 a.m.
10 to the third Sunday at 6:00 p.m. commencing February, 1994.

11 b). Christmas 1994, the entire Christmas school
12 vacation, commencing at 6:00 p.m. the last day of school before
13 the vacation and ending at 6:00 p.m. the day before school
14 resumes, and thereafter on alternate years.

15 c). Thanksgiving vacation 1995, from 4:00 p.m. the day
16 before said vacation to 6:00 p.m. the day before school resumes
17 and thereafter on alternate years.

18 d). Summer vacation - 1994. One extra week in June,
19 July and August, which will be contiguous with regular custody
20 period to be determined by the parties.

21 During the six weeks of school vacation, while custody is
22 with Respondent, Petitioner will have weekend visitation from
23 Friday at 4:00 p.m. until Sunday at 6:00 p.m., during the
24 midpoint of said period.

25 Pick up and delivery will be at the Police Station in
26 Parowan, Utah, with a 2 hour grace period. If either party
27 anticipates a delay beyond that "window" they are required, as

1 soon as is practical, to advise the Watch Commander at Parowan
2 Police Department of said delay and revised estimated time of
3 arrival.

4 Neither parent is to use disparaging remarks, nor allow any
5 other person to use disparaging remarks, about the other parent
6 in front of the child.

7 Neither parent is to use corporal punishment on the minor
8 child.

9 Each parent should promote and encourage mutual respect and
10 affection for the other parent. The child should be led to
11 believe that it is appropriate for him to love and to value both
12 mother and father".

13 The above Stipulation and Order shall be modified in the
14 following respects only: "Pick up time for Petitioner/father's
15 visitation, shall be 4:00 p.m. There shall be a two hour grace
16 period for pick up and return of the minor child. Respondent
17 shall not withhold the child from Petitioner before 6:00 p.m.

18 In the event Petitioner/father is more than two hours late
19 at pick up time, he shall then forfeit his visitation for that
20 particular month.

21 In the event that Petitioner/father is more than two hours
22 late in returning the minor child, he shall forfeit the next
23 month's visitation.

24 The exchange of the minor child shall occur at the Parowan
25 Police Department. In the event that said Department is closed to
26 the public at the time of the scheduled exchange, the exchange
27 shall take place curbside at Respondent's residence.

1 On July 15, 1993 the court appointed Attorney James M. Steck
2 as Referee and Special Master for all assets, both community and
3 separate, in the above entitled matter.

4 Between July 15, 1993 and October 12, 1994, numerous
5 pretrial Order to Show Cause hearings and conferences were
6 conducted on all issues then pending in this court. The court
7 issued many pretrial orders. Ultimately, the court set the matter
8 for a full disclosure hearing on September 29, 1994. Pursuant to
9 the request of the Special Master James Steck.

10 The court, based upon the evidence submitted, testimony of
11 the parties and that of Petitioner's daughter, Shawna Friis, who
12 was joined as a party, and argument of counsel, the matter was
13 taken under submission.

14 On October 12, 1994, the court issued the following order:

15 "Pursuant to the various and multiple hearings before this
16 Court, based upon previous Orders of this Court, Judge J Lewis
17 Liesch and Judge Paul M. Bryant, and based upon the Disclosure
18 Hearing of September 29, 1994, in Department "12" of the San
19 Bernardino Superior Court, it is Ordered, Adjudged and Decreed:

20 1. Shawna Friis, whose address is 6140 Cabernet,
21 Rancho Cucamonga, California, is hereby Joined in this action.
22 Ms. Shawna Friis is hereby ordered not to transfer, hypothecate,
23 sell, trade, or dispose of certain Cessna airplane, transferred
24 to her by Mr. Robert E. Friis.

25 2. The Court finds that the transfer of the Cessna
26 airplane, for \$1.00 (one dollar) consideration, is, by the
27 admission of Shawna Friis, a transfer without consideration and,

1 pursuant to previous Court Orders, done for the explicit purpose
2 of avoiding multiple Court Orders and, as a result, Ms. Shawna
3 Friis is hereby Ordered to return said Cessna airplane to the
4 Jurisdiction of this Court and to deposit said airplane, with the
5 Marshal of the County of San Bernardino, to be liened sold by the
6 Marshal of this County or, in a manner designated by this Court
7 or by law.

8 3. The Court finds that the Respondent has
9 intentionally and deliberately failed to comply with the Orders
10 of this Court, Judge Paul M. Bryant, and Judge J. Lewis Leisch,
11 in regard to the transfer or sale of community assets, quasi-
12 community assets, or separate assets.

13 4. The Court finds that the actions of Mr. Friis, in
14 relation to previous Orders of the Court, in relation to the
15 Hearing of September 29, 1994, is clearly in bad faith.

16 That bad faith is clearly evidenced by the fact
17 that the Court, by the Honorable Judge J. Lewis Leisch, Ordered
18 Mr. Robert E. Friis not to transfer any property, not to
19 dissipate any community assets, and not to secrete any assets.

20 Furthermore, said Order of the Judge J. Lewis
21 Leisch was additionally made an Order of the Court by Judge Paul
22 M. Bryant, who extended that Order to any and all community,
23 quasi-community, or separate property assets.

24 By his own admission, Mr. Robert E. Friis has
25 dissipated the community, quasi-community, or separate property
26 assets in the real property, known as to the "Topaz Property".
27 Mr. Robert E. Friis, by his own admission, has failed to make

1 payment on that property for a considerable period of time and
2 has allowed said property to be sold as a foreclosure sale. By
3 his own admission, before the Court, Mr. Robert E. Friis has
4 indicated that he is in arrears on said property in the sum
5 between \$21,000.00 and \$25,000.00.

6 5. The Court finds that this dissipation was
7 deliberate and intentional and was done for the explicit purpose
8 of defrauding the community and was done in contravention of
9 Court Orders. Furthermore, the Court finds that this was a
10 singular part of a plan, by Mr. Robert E. Friis, to dissipate
11 said community properties.

12 6. The Court finds that various assets have been
13 moved to the State of Arizona, in order to avoid the Jurisdiction
14 of this Court. By his own admission, in Court on September 29,
15 1994, Mr. Robert E. Friis has moved several boats to the "Parker
16 Property", which include a twelve (12) foot homemade boat, a 1992
17 Jetmate Ski Boat, and other such boats not disclosed by him.

18 7. The Court also finds that a Marlin Boat, that Mr.
19 Robert E. Friis has indicated was taken by Ms. Friis, was in the
20 possession of Mr. Robert E. Friis for a considerable time past
21 separation and that boat has been conveniently "stolen" only
22 recently.

23 8. Additionally, pursuant to the sworn testimony of
24 Mr. Robert E. Friis, certain furniture and furnishings have been
25 either removed, sold, or secreted by Mr. Robert E. Friis.

26 9. Pursuant to the testimony of Mr. Robert E. Friis
27 and the offer of proof of Ms. Linda Friis's attorney, a certain
28

1 1988 Comfort Motorhome and a certain 1989 Harley Davidson
2 Motorcycle, were sold, in contravention of the Court Order and in
3 a direct contradiction of the prior testimony of Mr. Robert E.
4 Friis. Pursuant to the offer of proof of Mr. Smolin, the Court
5 finds that the automobile and motorhome were in possession of Mr.
6 Robert E. Friis, quite recently, and was not sold fifteen (15)
7 days after separation.

8 10. The Court finds that Mr. Robert E. Friis has
9 either sold or secreted other automobiles in the Riverside
10 warehouse of Mr. Haller on Van Buren and Riverside. The Court
11 Orders that Mr. Robert E. Friis and/or Mr. Haller, if
12 appropriate, return all such automobiles to the jurisdiction of
13 this Court.

14 11. The Court finds that a certain Campbell Boat and
15 Trailer has been secreted, within the State of Arizona, at the
16 "Parker Arizona Property", in order to avoid the Jurisdiction of
17 this Court. Mr. Robert E. Friis is Ordered to immediately return
18 any Campbell Boat and Trailer to this Jurisdiction.

19 12. As a result of the bad faith actions of the
20 Petitioner herein, the Court hereby Orders that the pleadings be
21 stricken as to Mr. Robert E. Friis and that the matter proceed by
22 Default. Counsel for Mr. Linda Friis is hereby Ordered to list,
23 with singularity, any and all items, whether automobiles, boats,
24 or of a similar nature, and any and all furniture and furnishings
25 claimed, to be presented to the Court for it's signature.
26 Pursuant to that Judgment, the Court has hereby instructed the
27 attorney for Ms. Linda M. Friis, to prepare a declaration by Ms.

1 Linda M. Friis attesting to the community property of that
2 property.

3 13. The Court finds that Mr. Robert Friis has utilized
4 community property for his own separate property interest, has
5 dissipated community property as hereinabove described, and has
6 acted in a manner of exceedingly bad faith with this Court.
7 Therefore, the Court does hereby Order the sale of all community
8 property, in the possession of Mr. Robert E. Friis, or under his
9 domain and control and the return of any and all property to Ms.
10 Linda M. Friis, as dictated in the Judgment.

11 14. The Marshall, for the County of San Bernardino, is
12 hereby appointed, as far as able, under the laws of the State of
13 California, to sell any and all property under this Order or the
14 following Judgment.

15 15. Additionally, pursuant to the relevant Code
16 Sections, the Court does hereby find that the actions of Mr.
17 Robert E. Friis are a direct breach of his fiduciary relationship
18 to the community, his dissipation of community assets under his
19 control, are a result of bad faith actions, pursuant to Family
20 Code paragraph 271 and Code of Civil Procedure paragraph 128.5
21 and that, punitive damages, in the amount of fifty percent (50%)
22 of all assets so ascertained, shall be charged against Mr. Robert
23 E. Friis.

24 16. The Court makes the finding, to and for any Courts
25 of competent Jurisdiction, that this action by the Court, is
26 punitive in nature, and is a result of fraud, bad faith, breach
27 of fiduciary relationship and many other tortious acts committed

1 by Mr. Robert E. Friis.

2 17. The Court further finds that other individuals,
3 not a party to this action from the onset, have acted in
4 conspiracy with Mr. Robert E. Friis in order to avoid the
5 Jurisdiction of this Court, to defraud the Court, and to act in
6 bad faith.

7 As a result, the Court retains Jurisdiction over
8 all assets of this marriage, all quasi-community assets, and all
9 separate property assets of Mr. Robert E. Friis. As a result, any
10 individuals who are found to have conspired with Mr. Robert E.
11 Friis, for the actions hereinabove described, shall, by Ex-Parte
12 Motion, be deemed joined to this action in order to explain any
13 such conspiracies."

14 On 3/30/95, the matter came on calendar regularly upon
15 Respondent's Notice of Motion to amend her Response, bifurcate
16 the issue of status, correct a clerical error in the Order of
17 October 12, 1994, and clarification of item 15, page 4, of the
18 October 12, 1994 Order.

19 The Court hereby grants Respondent's request to amend her
20 Response, to specify with particularity the separate property
21 assets and community assets of the parties. The Court hereby
22 grants Respondent's request to bifurcate on the issue of status
23 and status was adjudicated. The Court, pursuant to Respondent's
24 request to correct a clerical error, grants the relief prayed for
25 and on page 2, item 3, line 7 and deletes the word "Respondent"
26 and inserts the word "Petitioner, Robert E. Friis".

27 The Court orders that Special Master James Steck, clarify

1 page 4, item 15, lines 27 and 28.

2 Upon inquiry of Special Master James Steck, regarding
3 clarification of page 4, item 15, lines 27 and 28, "...punitive
4 damage in the amount of fifty percent (50%) of all assets so
5 ascertained, shall be charged against Mr. Robert Friis shall
6 include all community and separate property of Mr. Friis in
7 calculating punitive damages based upon Respondent's amended
8 Response and Schedule of Assets and Debts filed on 3/30/94.

9 Specifically, the Respondent shall be awarded the following
10 items based upon the Court's Findings and Order of October 12,
11 1994 and March 30, 1995:

12	1.	The community equity, at the time of	
13		separation, in the family residence located	
		at 5282 Topaz Street, Alta Loma, CA.	
		(Asset value: \$230,000.00 -	
14		Encumbrance: \$198,000.00)	\$32,000.00
15	2.	221 Stardust Lane, Parker, AA,	
		Parcel #2264701-014	\$85,000.00
16	3.	Parcel # 0334343020000, Lake Arrowhead, CA	\$90,000.00
17	4.	Parcel # 0333545010000, Lake Arrowhead, CA	\$30,000.00
18	5.	1976 Jaguar	\$2,000.00
19	6.	1984 Chevrolet Corvette	\$5,200.00
20	7.	1987 BMW 325i	\$4,325.00
21	8.	1976 Ford Cobra (Lic. Plate #COBRA EP)	\$4,000.00
22	9.	1967 Chevrolet Chevelle	\$3,500.00
23	10.	1987 Mazda Truck	\$3,135.00
24	11.	1983 Chevrolet S-10 Truck	\$2,400.00
25	12.	1989 Ford Escort	\$3,000.00
26	13.	1988 Dodge Omni	\$2,200.00
27	14.	1985 Buick Park Avenue	\$2,110.00
28	15.	1988 Jeep Cherokee Wagon	\$4,900.00
	16.	1986 Ford Truck	\$4,400.00
	17.	1989 Toyota Truck	\$3,900.00
	18.	1987 Dodge Truck	\$1,475.00
	19.	1988 Ford Taurus	\$3,500.00
	20.	1979 Ford Bronco	\$2,300.00
	21.	1986 Honda Motorcycle	\$490.00
	22.	1984 Ford Mustang Convertible	\$3,500.00
	23.	1977 Chevrolet Montecarlo	\$100.00
	24.	1986 Honda Prelude	\$460.00
	25.	1988 Comfort Motorhome	
		Lic. Plate # 2WFG968	
		(Vehicle ID #1GBKP37W8J3323930)	\$25,000.00

1	26.	1988 Marlin Mercruiser (Ocean Boat) OB849229	
2		(Vehicle ID #EKWCE118A888)	\$25,000.00
3	27.	1988 Lomac Boat Trailer Lic. Plate #U136192	
4		(Vehicle ID# 427TB25B4JX000507)	\$5,000.00
5	28.	1989 Harley Davidson Motorcycle Lic. Plate #12C5266	
6		(Vehicle ID #1HD1BLL32KY018623)	\$15,000.00
7	29.	1969 Crestline Boat and Trailer	\$800.00
8	30.	1989 Campbell Boat and Trailer	\$25,000.00
9	31.	Two (2) Kawasaki Jetskis with trailer	\$3,000.00
10	32.	Twelve (12) Foot Runabout Boat with trailer	\$2,500.00
11	33.	Catameran Boat and trailer	\$1,500.00
12	34.	Dico Double Deck Dune Buggy trailer Lic. Plate #2FT4437	
13		(Vehicle ID #10DBB19D4GA002439)	\$1,500.00
14	35.	Sandrail, four seater	\$7,500.00
15	36.	Rock Dune Buggy	\$2,000.00
16	37.	Honda ATV Three Wheeler	\$1,100.00
17	38.	1974 Chevrolet Suburban Lic. Plate #12C5266	
18		(Vehicle ID #CCZ264F102616)	\$4,000.00
19	39.	Yamaha ATV Four Wheeler	\$1,500.00
20	40.	Honda ATV, Three Wheeler	\$1,200.00
21	41.	1989 Honda Elite Motorcycle	\$1,200.00
22	42.	1967 Honda 90 Moped	\$300.00
23	43.	Airplane, Cessna 182 #N8601T Parcel # 100633130-A068	\$40,000.00
24	44.	1984 Chevrolet Station Wagon	\$500.00
25	45.	Two (2) 18-speed mountain bikes	\$600.00
26	46.	10-speed bike	\$100.00
27	47.	Tricycle	\$20.00
28	48.	Antique Pool Table	\$5,000.00
29	49.	Complete set pure ivory pool balls	\$3,000.00
30	50.	Standard set pool balls	\$50.00
31	51.	Tadd Pool Que	\$1,500.00
32	52.	Seven standard pool ques	\$100.00
33	53.	Ocean scene oil painting	\$300.00
34	54.	Farm scene oil painting	\$200.00
35	55.	Antique sewing machine with solid oak case	\$1,500.00
36	56.	Solid oak kitchen table	\$1,500.00
37	57.	Six oak kitchen chairs	\$600.00
38	58.	Microwave oven	\$150.00
39	59.	Microwave oven (river)	\$150.00
40	60.	GE Refrigerator	\$500.00
41	61.	GE Refrigerator (river)	\$500.00
42	62.	Six Persian Rugs	\$2,500.00
43	63.	Complete kitchen furnishings (silverware, pots, pans, dishes, etc.)	\$750.00
44	64.	Complete kitchen furnishings (river)	\$750.00
45	65.	Complete kitchen furnishings (motorhome)	\$500.00
46	66.	48" Mitsubishi TV	\$2,500.00
47	67.	30" Magnavox color TV (river)	\$500.00

1	68.	Two 24" RCA TVs	\$300.00
	69.	Four Ritan rocker swivel chairs	\$200.00
2	70.	Two oak and glass tables	\$200.00
	71.	Couch and love seat	\$200.00
3	72.	Solid Oak desk and chair	\$800.00
	73.	IBM compatible computer and laser printer	\$1,500.00
4	74.	Solid Oak file cabinet	\$400.00
	75.	Maytag washing machine	\$250.00
5	76.	Maytag washing machine (river)	\$250.00
	77.	Maytag gas drier	\$200.00
6	78.	Maytag gas drier	\$200.00
	79.	Six porcelain plate collection	\$250.00
7	80.	Nine brass lamps (three hanging, six table)	\$500.00
	81.	Bunk bed, twin top and double bottom	\$400.00
8	82.	Eight piece solid oak bedroom w/California king mattress	\$3,850.00
9	83.	Five piece oak and brass bedroom set w/double box spring and mattress	\$2,000.00
10	84.	Queen size solid wood bedroom set (river)	\$500.00
	85.	Five piece solid wood bedroom set w/California king box spring and mattress	\$1,200.00
11	86.	All Linda's personal items (wardrobe, jewelry, etc.)	\$3,000.00
12	87.	One two man handwoven hammock	\$600.00
13	88.	Five piece hand made willow outdoor furniture	\$750.00
	89.	Outdoor patio table and chair	\$200.00
14	86.	Approx. 1220 Feet Christmas lights and accompanying extension cord	\$850.00
15	87.	Upright toy chest, hand painted, with the name Denim inscribed	\$150.00
16	88.	Antiques oak child's desk w/porcelain handles and chair	\$250.00
17	89.	Dirt Devil vacuum cleaner	\$50.00
	90.	Hoover vacuum cleaner (river)	\$50.00
18	91.	Bissel carpet shampooer	\$75.00
	92.	Trampoline	\$300.00
19	93.	Antique porcelain doll w/peach silk gown	\$1,800.00
	94.	Two Samsung VCRs	\$200.00
20	95.	One Samsung VCR (river)	\$100.00
	96.	Solid wood dining room table with chairs	\$400.00
21	97.	Couch and love seat set (river)	\$300.00
	98.	Blender, hand mixer, coffee maker, food processor, and toaster	\$150.00
22	99.	Double stack Craftsman tool chest and tools	\$1,500.00
23	100.	Double stack Craftsman tool chest and tools (\$1,500.00)	\$1,500.00
24	101.	Automobile hydraulic floor jack	\$50.00
25	102.	Four motorcycle helmets	\$100.00
	103.	Minolta camera w/two lenses	\$750.00
26	104.	Camcorder and tripod	\$500.00
27	105.	Two stainless steel swords (Linda's family heirloom)	\$500.00
28	106.	Shovel, rake and hoe	\$25.00

107. Shovel, rake and hoe (river)	\$25.00
108. Lawn mower	\$75.00
109. Gas weed eater	\$65.00
110. Electric weed eater (river)	\$40.00
111. Ten garden hoses	\$100.00
112. Linens, blankets and bedspreads, six bedrooms	\$600.00
113. Towels to furnish four bathrooms (two homes)	\$400.00
114. Twelve life preserver/jackets and ski ropes	\$250.00
115. Miscellaneous home decor items (two homes)	\$1,000.00
116. Reimbursement of Attorney fees paid to the Law Office of Ferrazzo and Ferrazzo	\$87,000.00
117. Monetary Judgement in favor of Robert Friis, in Friis vs. Vides (amount unknown at this time. Will supplement when ascertained)	UNKNOWN

TOTAL = \$597,670.00 + item 117 above, Amount of Monetary
Judgement.

The respondent, Linda Friis, shall be awarded, as
punitive damages, the sum of \$298,835.00 + 50% of the
Monetary Judgement reflected in item 117 above.

The Court shall reserve jurisdiction over the issues of
Respondent's request for attorney fees for Attorney Richard
Smolin, counsel for Respondent; Attorney Michael Darlington,
counsel for the minor child; fees for the appointed Special
Master, Attorney James Steck and fees for the appointed real
estate agent, Sandy Schaeffer, until Order of the Court.

Due to the Petitioner's fraudulent conduct in disposing
of Community, Quasi-Community and Separate Property, the
Court reserves jurisdiction over all omitted or undisclosed
assets of the parties including, but not limited to, all
vehicles, motorvehicles, boats, trailers and motorcycles
listed, which are not specifically identified by VIN number
and or License Plate Number, due to Respondent's lack of
access to said information. Specifically, the Court shall
retain Jurisdiction over these assets to clarify or amend

1 this Judgement upon ascertainment of any and/or all VIN
2 numbers and/or license plate numbers for those vehicles
3 listed in this Judgement without such identifying
4 information.

5 The respondent is granted leave of the Court, upon Ex-
6 parte application, to amend or clarify this Judgement in
7 relation to these vehicles, motorvehicles, boats, trailers
8 and motorcycles.

9 Upon location and/or recovery of any and/or all of the
10 items awarded to Respondent in this matter, the Court
11 reserves jurisdiction to make any necessary and proper
12 orders regarding the method and manner that said items are
13 to be disposed of, sold, or otherwise liquidated and/or
14 reduced to possession by Respondent, Linda Friis.

15 Respondent shall be granted leave of Court, upon Ex-
16 parte application, to secure any and/or all necessary and
17 proper orders concerning the method and manner that said
18 items are to be disposed and/or reduced to possession by
19 Respondent upon location and/or recovery.

20 IT IS SO ORDERED.

21 Date: 5-8-91

22 
JUDGE OF THE SUPERIOR COURT