

2003

Gerald D. Lundahl v. Ruth M. Telford (Lundahl) : Addendum to Opening Brief

Utah Court of Appeals

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Marlene Telford (Lundahl).

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MARLENE TELFORD (LUNDAHL)
4139 NORTH DEVONSHIRE CIRCLE
PROVO, UTAH 84604

FILED
UTAH APPELLATE COURTS
MAR 16 2004

In Pro se

UTAH COURT OF APPEALS

In re Marriage of:	) <u>CASE NUMBER 20030800-CA</u>
)
GERALD D. LUNDAHL, M.D.	) ADDENDUM TO:
Plaintiff and Appellee,)
	) Opening Brief
vs.)
	) Fourth Judicial District Court
RUTH M. TELFORD (LUNDAHL))
Respondent, Appellant	) Case No 784449259
)
	) Judge Claudia Laycock

APPEAL FROM THE FOURTH DISTRICT COURT OF UTAH COUNTY
HONORABLE JUDGE CLAUDIA LAYCOCK PRESIDING

ADDENDUM TO OPENING BRIEF

UTAH COURT OF APPEALS
BRIEF
UTAH
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DOCKET NO. 20030800 -CA

MARLENE TELFORD (LUNDAHL)
4139 North Devonshire Circle
Provo, Utah
Tel: (801) 225 2051
In Pro per

MARLENE TELFORD (LUNDAHL)
4139 NORTH DEVONSHIRE CIRCLE
PROVO, UTAH 84604

in Pro se

UTAH COURT OF APPEALS

In re Marriage of:

GERALD D. LUNDAHL M.D.

Plaintiff

MARLENE TELFORD (LUNDAHL)

Respondent

CASE NUMBER 784449259

APPEAL CASE No 20030800-CA

RESPONDENT'S ADDENDUM TO HER
OPENING BRIEF —REGISTERING THE
CALIFORNIA COURT OF APPEALS
OPINION FILED FEBRUARY 27, 2004
IN THE CALIFORNIA SUPERIOR
COURT.

The Respondent in filing the California Court of Appeal, District Four, Division Three's Opinion before the Utah Court of Appeals assists in large measure to validate additional evidence that Utah does have jurisdiction to make it's own orders under RURESA, which allows the Respondent to register them in the California Superior Court of Orange County for collection.

Therefore, the Respondent in addition to attaching the California Court of Appeals Opinion will out line for the benefit of the court positions taken by the California Court of Appeals.

1) The California Appeals Court Opinion on page (24) explicitly states: "Because neither the parties' 1977 California decree, nor RURESA nor UIFSA support Lundahl's argument that the California Courts were vested with exclusive spousal Support jurisdiction, the trial court's order confirming registration of the Utah support orders is affirmed"

2) The Utah Appeals Court will also note on page (23) of the Opinion that in both

1 the text of the Opinion including footnotes that the “California Appeals Court finds that
2 RURESA is the act which governs the Utah orders, thereby giving full faith and credit to
3 the Utah orders, upon registration in the Courts of California”. (See Footnotes page (23)
4 of Opinion. The Court also states on the same page that the California Order of 1994's
5 reduction to \$500 per month is *[suspect]*”. The **September 23, 2003 Utah order** states:
6 “that Utah did not have Subject matter nor personal jurisdiction over the matters before
7 the Court ” which brings to the table the *prior* Utah Order written by the Honorable Judge
8 Guy Burningham which succinctly states that *Utah does have subject matter and*
9 *personal jurisdiction*; See (Exhibit # 2 Utah 1995 Order) moreover, the California
10 Appeals court in their Opinion page (23) in footnotes stipulates . . . referring to the Utah
11 Order of April 1995 “the Utah court has jurisdiction over this matter . . .” ‘On the
12 limited record before us, we fail to see how the issue of Utah subject matter jurisdiction
13 was not **res judicata.**” (referring to the present **Utah ruling of 2003** which is now
14 before the Utah Court of Appeals).

15 3) All Utah Orders are **res judicata**, since the Plaintiff never challenged nor did
16 he appeal any of the Utah Orders.

17 The Respondent wishes the court also take note of page (22) where the California
18 Appeals Court states, “We also decline to take notice of the new [Utah 2003] order
19 because, on the sparse Utah record Lundahl presents, we are *skeptical it will survive*
20 *appeal.* . . . thus the new order’s contrary conclusion *appears erroneous.*”

21 4) Both Utah and California expressly recognize that under RURESA sister states
22 may issue independent support orders for differing amounts without having modified,
23 superceded, or nullified each other’s orders.” California Appeal Court Opinion now
24 referred to as CACO. See p. 11. See also last paragraph.

25 5) “Hence, the principles articulated for RURESA child support orders *apply*
26 *equally to spousal support orders.* . . ” p.12.CACO
27
28

1 6) "Lundahl's argument that the California divorce decree was controlling, and
2 that the subsequent Utah support orders were void under RURESA, is simply wrong". p
3 13, CACO

4 7) "Under UIFSA, the support orders themselves will continue to have vitality, in
5 short, UIFSA is specifically designed to function with the earlier acts without conflict"
6 CACO p.15

7 8) "Parties wishing to modify a decree must do so in the [orders] original forum"
8 Lundahl must appear in Utah if he desires to modify the Utah court's spousal support
9 orders." p.19 CACO

10 9) **"And while UIFSA worsens Lundahl's dilemma because in-state**
11 **modification is no longer available, he has only himself to blame for not appearing in**
12 **the Utah actions in which additional support was ordered."** p.19 CACO

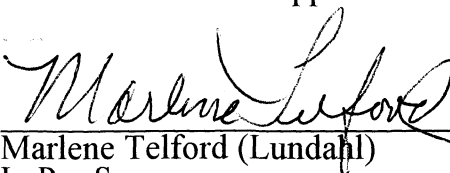
13 10) "We decline to take notice of the new Utah Order for several reasons:

14 'First, Lundahl concedes the order is not yet final. Only final
15 judgments are entitled to full faith and credit. Because of the
16 uncertainty surrounding the appeal of the [Utah] Order and its
17 finality, we conclude taking notice of the order is not
18 appropriate. p. 21 CACO'

19 'Second, The uncertain scope of the new Utah order militates against our
20 taking notice of it (Note entire paragraph p.22 CACO')

21 'Thirdly, We also decline to take notice of the new [Utah] order because,
22 on the sparse Utah record Lundahl presents, we are skeptical *it will survive*
23 *appeal. p. 21 CACO'*" . . . Etc.,

24 The Respondent submits the California Court of Appeal's Opinion, and
25 respectfully requests the Utah Court of Appeals notes the depth and details of the
26 California Court of Appeal's decision, thereby closing any door which the Plaintiff might
27 consider in another appeal before the California jurisdiction.

28 
Marlene Telford (Lundahl)
In Pro Se

Date 4/13/2004

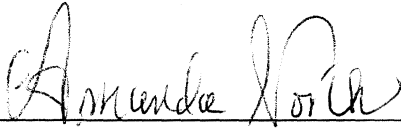
PROOF OF SERIVCE

I am over the age of eighteen and not a party to the within action.

On March 11 2004 I personally mailed the foregoing document **Addendum to Opening Brief and related documents** to the Appellate Court 450 South, State Street, Salt Lake City, Utah as well as mailing same documents personally on the interested parties in this action.

Executed on March 11, 2004 at Provo, Utah.

I declare under penalty of perjury under the laws of the State of Utah that the foregoing is true and correct.



Amanda North
2233 North 800 West
Linden Utah

SERVICE LIST

David Drake, Esq
6905 S. 1300 East, #248
Midvale, Utah 84047

Plaintiff's Utah Counsel

Judge Claudia Laycock
Fourth District Court, Utah County
125 North, 100 West
Provo, Utah, 84601

Fourth District Court, Provo, Utah

COURT OF APPEALS, STATE OF UTAH,
450 South State,
Salt Lake City, Utah, 84111

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MICHAEL D ESPLIN (1009)
ALDRICH, NELSON, WEIGHT & ESPLIN
Attorneys for Defendant
43 East 200 North
P O Box L
Provo, Utah 84603-0200
Telephone (801) 373-4912

IN THE FOURTH JUDICIAL DISTRICT COURT FOR UTAH COUNTY
STATE OF UTAH

GERALD D LUNDAHL,

Plaintiff,

v s

RUTH M LUNDAHL,

Defendant.

FINDINGS OF FACT, ORDER
MODIFYING DECREE AND
JUDGMENT

Civil No 784449259

(Judge Guy R. Burningham)

This matter came on for hearing before the above-entitled court on the 27th day of January, 1995, the Honorable Guy R. Burningham, presiding. This matter had originally been set for the 26th of January, 1995, but was continued by the Court to the following day. This matter was before the Court for an evidentiary hearing on defendant's Petition to Modify the order of alimony and plaintiff's Counter-Petition to Modify. The defendant was present and was represented by counsel, Michael D Esplin. The plaintiff was not present, nor was he represented by counsel. The Court notes the notice of withdrawal submitted by plaintiff's counsel, Dana Burrows notifying the plaintiff of his withdrawal as counsel and advising the plaintiff of the trial date and the importance of his appearance. The Court noted that the plaintiff had not appeared on January 26, 1995, that the Court had not been contacted by plaintiff nor by

1 anyone on his behalf. The defendant's attorney, Michael D. Esplin, also indicated to the Court that he
2 had appeared on January 26, 1995, at the time set originally for the trial of the matter, and that he had
3 searched the courthouse for the plaintiff and could not locate him. The Court noted the motion
4 previously filed by defendant to strike the pleadings of the plaintiff, granted said motion, and proceeded
5 to hear the testimony and receive evidence in this matter. The Court, being fully advised in the premises,
6 having heard testimony and received evidence, now therefore makes the following:

7 FINDINGS

8 1. The Court finds that this Court has continuing jurisdiction of the subject matter and of the
9 plaintiff.

10 2. The Court finds that the plaintiff has failed to obey the previous orders of the Court in regard
11 to providing discovery sought by defendant, has given false and misleading testimony during depositions
12 in this matter, and has not cured his contempt citation previously found by the Court.

13 3. The Court therefore finds that the pleadings of the plaintiff should be stricken and defendant
14 allowed to proceed with evidence on her petition.

15 4. The Court finds that there has been a material and substantial change in the circumstances of
16 the defendant in that since the last alimony award in this matter the defendant has become disabled and
17 unable to obtain meaningful employment with which to support herself.

18 5. The Court finds that defendant is in need of alimony based upon the length of the marriage of
19 the parties, the present disability of the defendant, her inability to earn income as a result of the disability,
20 defendant's monthly expenses.

21 5. The Court finds that the plaintiff is involved in the operation of five diet centers in the State
22 of California, is a medical doctor, and is capable of providing alimony to the defendant.
23

1 6. Based upon the needs of the defendant and the ability of the plaintiff to earn income, the Court
2 finds that the alimony of the defendant should be modified to the sum of \$2,235.00 per month. This
3 amount is found by the Court to be fair and reasonable in the premises.

4 7. The Court further finds that pursuant to the temporary order of the Court, that the plaintiff
5 is in arrears since the last judgment of the Court in February, 1993, in the total amount of \$62,100.00 for
6 which judgment should enter against the plaintiff and in favor of the defendant. The arrearage is based
7 upon the temporary alimony and child support award of \$3,000.00 per month, adjusted by deducting the
8 sum of \$300.00 of said amount representing the amount of child support and multiplying the remainder
9 of \$2,700.00 by the months which have passed since the last judgment, the plaintiff having paid nothing
10 since that time.

11 8. The Court finds that the defendant has been required to seek the services of an attorney to
12 pursue this matter and to respond to the Counter-petition of the plaintiff. The plaintiff in this matter has
13 been deceptive and refused to provide factual and accurate documents and discovery responses. The
14 attitude and actions of the plaintiff have required additional time and effort on the part of defendant's
15 counsel to meet and refute the claims of the plaintiff and to support the allegations of the defendant. The
16 Court finds that the sum of \$5,200.00 is a reasonable and necessary amount of attorneys fees in this
17 matter. The Court further finds that the defendant does not have the ability or resources to pay attorneys
18 fees and that it is reasonable that the defendant be awarded judgment against the plaintiff in the amount
19 of \$5,200.00

20 NOW THEREFORE, having made the foregoing Findings, the makes the following:

21 ORDER AND JUDGMENT

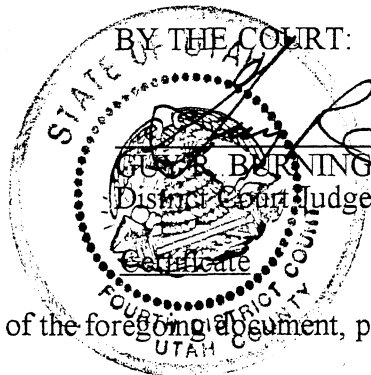
22 1. The previous orders in this matter are modified to provide that the defendant is awarded the
23

1 ~~sum of \$2,235.00~~ per month as alimony and the plaintiff is ordered to pay said amount effective beginning
2 February 1, 1995. Said amount shall be paid in two equal monthly installments of \$1,117.50, the first
3 payment due on or before the 5th day of each month and the second due on or before the 20th day of
4 each month.

5 2. Defendant is awarded judgment against the plaintiff in the amount of \$62,100.00 for arrearages
6 in alimony ordered pursuant to the temporary order of this Court.

7 3. Defendant is also awarded judgment against the plaintiff in the amount of \$5,200.00 for her
8 attorneys fees incurred in this matter.

9 Dated the 12 day of April, 1995.



15 I certify that I mailed a copy of the foregoing document, postage prepaid, to the following:

16 GERALD D. LUNDAHL
17 Plaintiff
18 27365 Jefferson Avenue, Suite L
19 Temecula, California 92590

20 this 12 day of April, 1995.

21 I HEREBY CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF
22 THE ORIGINAL AS FILED IN THE
23 FOURTH DISTRICT COURT, UTAH
COUNTY, STATE OF UTAH.

DATE: 11-6-62
Debbie R.
CLERK OF COURT

RECEIVED JUL 25 2003

FILED

Fourth Judicial District Court
of Utah County, State of Utah
CARMA B. SMITH, Clerk

7/21/03 11:50 Deputy

IN THE FOURTH JUDICIAL DISTRICT COURT
UTAH COUNTY, STATE OF UTAH

GERALD D LUNDAHL, Petitioner,	)	Ruling
)	
vs.	)	CASE NO. 784449259
)	
RUTH M LUNDAHL, Respondent.	)	DATE: July 21, 2003
)	
	)	Judge Laycock
)	

This matter is before the Court on petitioner's *Motion to Strike Respondent's Order to Show Cause, Motion for Order to Show Cause, and Supporting Affidavit*. Oral arguments were presented on May 29, 2003 before Judge Laycock. Gerald D. Lundahl ("petitioner") was present and represented David O. Drake. Ruth M. Lundahl ("respondent") was present and represented by Michael D. Esplin. After the parties' presentations, the Court took the matter under advisement and allowed the parties an additional period of time to file supplemental briefs on the issue of jurisdiction. On June 5, 2003, the parties entered into a stipulation to enlarge the time to file the supplemental briefs to June 11, 2003.

During the supplemental briefing period petitioner, without the aid of or knowledge of his attorney, began filing various documents with the Court. Some of the documents were prepared by Holly Lundahl, petitioner's daughter, and some were purportedly filed by David O. Drake, petitioner's attorney. On June 19, 2003, the Court received a *Notice of Termination of Special Appearance Counsel David Drake and Demand for Automatic Stay of Proceedings for 20 Days*.

Pursuant to Utah Rules of Judicial Administration. On June 27, 2003, David O Drake filed a motion asking the Court to withdraw the documents that petitioner had personally filed. The Court GRANTS petitioner's motion to withdraw said documents and has removed the documents from the record. On July 3, 2003, the Court received an *Affidavit of Petitioner Confirming Representation of David Drake and Withdrawing Documents Filed By Holly Lundahl*. Petitioner's affidavit confirms that he is currently and has been continuously represented by David O. Drake. This being the case, the Court will now rule on the various motions still pending before this Court.

PROCEDURAL FACTS

The parties were divorced in California in September of 1977. On May 17, 1978, petitioner filed a complaint in this Court requesting that the California decree of divorce be made a decree of this Court. On June 26, 1978, respondent filed an answer and counterclaim to the complaint requesting a modification of the amount of alimony and child support awarded by the California decree. On July 10, 1978, petitioner filed a reply to the counterclaim. On December 26, 1979, petitioner filed a motion for summary judgment asserting that since the California court had already ruled upon support and alimony in the original action, this Court's jurisdiction was limited to the issues raised by petitioner at that time. The petitioner's motion for summary judgment was denied April 28, 1980. On June 30, 1980, the parties entered into a written stipulation to modify the alimony and child support which both parties signed. Said stipulation

included a provision that either party could petition the Court for a re-evaluation of alimony and child support at any time that he or she deemed proper and appropriate. On July 7, 1980, this Court entered an order in conformity with the aforementioned written stipulation. Thereafter, this Court received and ruled on various motions presented by both parties.

**PETITIONER’S MOTION TO STRIKE SUPPLEMENTAL MEMORANDUM IN OPPOSITION TO
MOTION TO STRIKE**

Petitioner contends that respondent’s supplemental memorandum in opposition to the petitioner’s *Motion to Strike Respondent’s Order to Show Cause, Motion for Order to Show Cause, and Supporting Affidavit* should be stricken because it was untimely filed. Respondent has not responded to this motion. Pursuant to Rule 4-501 of the Rules of Judicial Administration, respondent’s time to respond has lapsed. Therefore, the Court enters the following ruling.

The June 6, 2003 stipulation of the parties states that the parties “stipulate that the time be enlarged from June 6, 2003 to June 11, 2003 to file the additional briefs requested by the Court at the May 29, 2003 hearing.” On June 11, 2003, petitioner filed his supplemental memorandum in support. On June 13, 2003, respondent filed her supplemental memorandum in opposition.

Petitioner urges the Court to strike respondent’s supplemental memorandum in opposition because it was filed two days late according to the June 6, 2003 stipulation. The Court recognizes that respondent’s memorandum was untimely filed. However, due to the confusion created by petitioner and Holly Lundahl’s filing of additional documents, which allegedly

supplemented the record and even purported to terminate petitioner's counsel's representation, the Court will excuse the untimeliness and will consider respondent's supplemental memorandum in opposition. Accordingly, the Court DENIES petitioner's *Motion to Strike Respondent's Supplemental Memorandum in Opposition to Motion to Strike*.

MOTION TO STRIKE RESPONDENT'S ORDER TO SHOW CAUSE, MOTION FOR ORDER TO SHOW CAUSE, AND SUPPORTING AFFIDAVIT

Petitioner urges the Court to strike the Order to Show Cause, Motion for Order to Show Cause, and Supporting Affidavit of respondent. Petitioner argues that the original spousal support order was entered by the California Superior Court and that the California court, by its express decree, retained continuing jurisdiction over the parties and the subject matter of spousal support and child support.

In support of his argument, petitioner propounds as authority *Child Support Enforcement Division of Alaska v. Brenckle*, 675 N.E 2d 390 (Mass 1997). Therefrom, petitioner asserts the applicability of the Uniform Interstate Family Support Act ("UIFSA") to this case. Petitioner argues that UIFSA should be applied retroactively, and that UIFSA provides the proper procedural framework for enforcing one state's support order in another jurisdiction. The Court agrees with this argument.

In *State of Utah, Dept. of Human Services v. Jacoby*, 1999 UT App 52, 975 P.2d 939 (Utah Ct App 1999), the Utah Court of Appeals upheld the trial court's finding that UIFSA should be applied retroactively. *Id.* at ¶ 14, 942. In so doing, the court stated that the policy of

UIFSA is to ensure that there is uniformity in the enforcement of child support orders between the states and that the retroactive application of the statute furthers that policy. *Id.* Pursuant to this holding from the appellate court, this Court finds that UIFSA is retroactive and must be applied to the facts of this case.

Accepting petitioner's argument that UIFSA applies retroactively and is therefore applicable to this case is not, however, dispositive of this Court's authority to hear this case. Utah Code Ann. § 78-45f-206(3) (2002), which is titled "Enforcement and modification of support order by tribunal having continuing jurisdiction" states, "A tribunal of this state which lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state." Accordingly, this Court cannot act as the responding tribunal, i.e., cannot modify the California divorce decree, unless this Court has "continuing, exclusive jurisdiction." In *Jacoby*, the Utah Court of Appeals held:

The method by which a Utah court obtains 'continuing, exclusive jurisdiction' over a spousal support order is by 'issuing a support order consistent with the law of this state.' Thus, a Utah court cannot obtain 'continuing, exclusive jurisdiction' unless it issues the spousal support order.

Id.(quoting Utah Code Ann § 78-45f-205(6)). Under *Jacoby*, this Court does not have "exclusive, continuing jurisdiction," unless it is the issuing state. The facts of this case clearly establish that the spousal support order was issued by California, which according to UIFSA, is the only court that has jurisdiction to modify the spousal support order. Accordingly, this Court

finds that it does not have subject matter jurisdiction to adjudicate this matter under Utah's version of UIFSA.

However, even though this Court does not have continuing exclusive jurisdiction under Utah's UIFSA, the California Court in its September 27, 2002 order clearly found that, under California law, Utah and California have concurrent jurisdiction over this matter. This Court reads the September 27, 2002 order signed by Commissioner Julee Robinson of the California Superior Court for Orange County to mean that the California Court has recognized Utah's jurisdiction—both personal and subject matter jurisdiction:

The Court finds that the only issue remaining is the issue of the amount of arrears owed

The Court finds that the Utah Court did have personal jurisdiction over Petitioner at the time that the Utah Orders were made, and that the Utah Court had emergency jurisdiction for any temporary Orders

The Utah Court had jurisdiction to make the orders because there was concurrent jurisdiction in both Utah and California. The Utah Orders are entitled to Registration. Petitioner submitted insufficient proof to show that the Utah orders were vacated, suspended or modified by later orders. Petitioner submitted insufficient proof to show that some or all of the arrears are unenforceable. The Court finds that the Orders can be confirmed in part, except as to whether the amount of arrears is incorrect

The California Court has concluded that, under its laws, Utah's prior orders are enforceable.

In its September 27, 2002 order, the California Court scheduled a July 9, 2002 telephonic hearing on the amount of the arrears. Neither party has provided this Court with an order which was a result of that hearing or which resolved that issue in the California Court. This Court will enforce any such order when a copy is provided. However, this Court cannot, at this time,

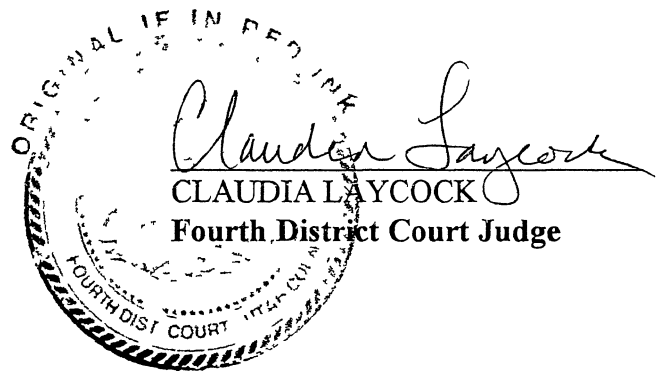
enforce a prior support order which is currently being modified (or has been modified) in the California Court. Accordingly, the Court will strike *Respondent's Order to Show Cause, Motion for Order to Show Cause, and Supporting Affidavit* and will await a new order to show cause after this issue has been completely resolved by the California Court.

Finally, respondent contends that *res judicata* precludes this Court from addressing the issue of subject matter jurisdiction; however, respondent has not provided the Court with a final order or ruling establishing that the issue of subject matter jurisdiction has been explicitly ruled on by a court in this jurisdiction.¹ Accordingly, this Court finds that respondent has not established the requisite elements of *res judicata* and, as such, respondent's argument fails.

Because this Court does not have subject matter jurisdiction over this case under Utah's version of UIFSA, the Court GRANTS petitioner's *Motion to Strike Respondent's Order to Show Cause, Motion for Order to Show Cause, and Supporting Affidavit*. The Court orders petitioner to prepare an order consistent with this ruling.

¹The Court has carefully reviewed the 3-volume file, but has found neither a ruling nor an order in which subject matter jurisdiction was explicitly ruled upon by any of the previous judges. If such a ruling was made on the record, respondent would need to provide a transcript of such hearing for this court's consideration.

Dated as Provo, Utah this 21st day of July, 2003



Case no. 784449259

COPY

CERTIFIED FOR PARTIAL PUBLICATION*

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

COURT OF APPEAL-4TH DIST DIV 3
FILED

FEB 27 2004

GERALD D. LUNDAHL,

Plaintiff and Appellant,

v.

RUTH M. TELFORD,

Defendant and Respondent;

ORANGE COUNTY DEPARTMENT OF
CHILD SUPPORT SERVICES,

Intervener and Respondent.

G030846

Deputy Clerk _____

(Super. Ct. No. 01FL007984)

O P I N I O N

Appeal from an order of the Superior Court of Orange County, Julee Robinson, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Family Law Appellate Associates and Jeffrey W. Doeringer for Appellant.

Ruth M. Lundahl, in pro. per., for Respondent.

Bill Lockyer, Attorney General, James M. Humes, Assistant Attorney General, Frank S. Furtek and Mary Dahlberg, Deputy Attorneys General, for Intervener and Respondent.

Barry J. Brooks as Amicus Curiae, upon the request of the Court of Appeal.

* * *

* Pursuant to California Rules of Court, rule 976(b) and 976.1, this opinion is certified for publication with the exception of parts II A., II B., and II D.

Gerald Lundahl contends the trial court erred in denying his petition to vacate registration of several Utah spousal support orders in favor of his former wife, Ruth Telford. Lundahl argues the five Utah orders, issued between 1991 and 1999, are void for lack of subject matter jurisdiction because the parties' 1977 divorce in California invested California with exclusive jurisdiction over spousal support. We disagree and affirm. In doing so, we revisit well-established provisions of the Revised Uniform Reciprocal Enforcement of Support Act (RURESA) permitting concurrent support orders in different jurisdictions for differing amounts. We consider whether RURESA's replacement, the Uniform Interstate Family Support Act (UIFSA), codified at Family Code section 4900 et seq.,¹ establishes a mechanism for settling upon a single order as controlling among multiple *spousal* support orders, as opposed to child support orders. Under UIFSA's express terms, we conclude there is no provision for a single controlling spousal support order.

I

FACTS AND PROCEDURAL BACKGROUND

Lundahl and Telford were married in Utah in 1952. They later moved to Los Angeles. After 25 years of marriage and 12 children, Lundahl and Telford divorced in 1977. The divorce decree, issued by the Los Angeles family court, set child support at \$1,600 per month and spousal support at \$600 per month. A paragraph in the decree labeled, "*Reservation of Jurisdiction*," stated: "The court reserves jurisdiction of the above-entitled matter and as to all such issues as may be necessary to effect the purposes and intent of this order." The decree awarded Telford custody of the minor children and

¹ All further statutory references are to this code, unless otherwise specified.

she returned to Utah. The next year, Lundahl alleged problems had developed with his visitation rights. He filed an action in the Utah courts, and the visitation issue was apparently resolved.²

In 1987, Lundahl renewed litigation in Los Angeles. The matter was transferred to Orange County. On August 24, 1987, the Orange County court set child support at \$1,800 per month for four children until the eldest emancipated, then \$1,500 for three children until the next eldest emancipated, then \$1,200 per month for two children until one emancipated, and finally \$600 per month until the youngest emancipated. The court set spousal support at \$1,000 per month until the eldest child emancipated, whereupon it would increase to \$1,050 until the youngest child emancipated, and then continue at \$1,250 until the death of either party or remarriage of Telford.

In 1989, on Lundahl's motion, the Orange County court modified custody by awarding him physical custody of one of the parties' minor children. Telford did not appear.

In 1991, seeking enforcement of child and spousal support, Telford filed in Utah the first of several petitions that are the subject of this appeal. Lundahl did not appear at a hearing on the court's order to show cause on April 24, 1991. The court found Lundahl had ceased paying \$3,000 a month in "family" support and ordered him to resume paying that amount. Lundahl appeared at the next hearing on August 29, 1991,

² Throughout the ensuing years, it seems numerous proceedings took place in Utah, resulting in stipulations by the parties and court orders. The parties allude to these proceedings but, except for the orders we discuss below that are the subject of this appeal, it appears no other Utah proceedings were before the trial court or figured in its registration decision. Lundahl elected to bring up the trial court record by way of appendices instead of clerk's transcripts (Cal. Rules of Court, rule 5.1.), so he has only himself to blame for any record omissions.

and the court set arrears at \$3,500. Neither the \$3,000 monthly “family” support amount, nor the \$3,500 arrears amount were broken down into separate amounts for child and spousal support.

Lundahl again visited the Orange County courthouse in 1993, seeking custody of the parties’ only remaining minor child. The court granted Lundahl’s custody request and terminated his child support obligation. Telford did not appear.

The same year, a judgment in the Utah court established arrears at \$29,200 through February 1993. Lundahl appeared at this hearing. He argued the court had no jurisdiction over “support arrearages and in fact California has jurisdiction over this matter.” But the court expressly concluded it had jurisdiction. The \$29,200 in arrears ordered by the court was a lump sum; it did not distinguish between child and spousal support.

In November 1994, Lundahl sought a reduction of spousal support in Orange County. Telford testified and the matter was continued. She failed to appear at the next hearing, and spousal support was reduced to \$500 per month, beginning July 1994. Lundahl asserts this is the controlling amount.

Lundahl owned property in Riverside County, California. To avoid a lien on the property, Lundahl entered into a stipulation in January 1995 with the Riverside County District Attorney’s Office. He agreed his “child support and/or arrears” from August 1991 through December 1994 were \$31,498.18, and consented to pay \$1,852.83 per month towards these arrears. The stipulation, filed in the Riverside County Superior Court, expressly included the \$500 per month due under the 1994 Orange County spousal

support order, but did not specify whether any other portion of the “arrears” was for accrued spousal support or only for delinquent child support.³

In April 1995, on Telford’s petition, the Utah court set spousal support at \$2,235 per month and arrears at \$62,100, plus attorney fees of \$5,200. Lundahl did not appear at the hearing on the petition. The court’s order noted the \$62,100 arrearage was “based upon the temporary alimony and child support award of \$3,000.00 per month, adjusted by deducting the sum of \$300.00 of said amount representing the amount of child support and multiplying the remainder of \$2,700.00 by the months which have passed since the last judgment, the plaintiff having paid nothing since that time.”

Telford then attempted to set aside the Orange County court’s 1994 spousal support order. In a motion to vacate the order, she claimed misinformation from Lundahl’s counsel caused her to skip the hearing at which spousal support was reduced to \$500. The court rejected her claim of extrinsic fraud or mistake, concluding she “was in court on the 18th, she knew of the continued date, she may have misunderstood, I’ll give her the benefit, [but] I don’t think there is any . . . extrinsic fraud, or any showing here that she was denied her right to appear” (*In re Marriage of Lundahl* (Aug. 26, 1997, G019679) [nonpub. opn.], p. 4.) On appeal, Telford changed tactics and asserted for the first time the trial court “was without in personam or in rem jurisdiction . . . because she made a special appearance . . . and there was no other basis on which the court could assume jurisdiction.” (*Ibid.*) We concluded Telford waived the argument, and further noted the record did not establish a special appearance and that, even if it had, “the court,

³ Telford did not sign the stipulation and she insists the District Attorney’s Office could not waive her right to arrears, a point we need not reach on this appeal since the trial court deferred calculation of arrears, as we discuss below.

pursuant to the dissolution judgment, maintained jurisdiction over the parties and spousal support.” (*Id.* at p. 5.)

In February 1999, after a hearing in Utah at which Lundahl again failed to appear, the Utah court entered an order establishing “back alimony” at \$62,991.72, plus interest, as well as \$500 in attorney fees. The court’s order did not specify the period covered by the \$62,991.72 figure.

On October 24, 2001, the family support division of the Orange County District Attorney’s Office registered the two 1991 Utah orders and the 1993, 1995, and 1999 Utah orders for enforcement in California. Lundahl subsequently moved to vacate registration on five grounds: (1) the Utah court lacked personal jurisdiction over him; (2) the Utah support orders had been vacated, suspended, or modified by a later order; (3) the amount of arrears was incorrect; (4) some or all of the arrears were not enforceable; and (5) laches. In an amended order entered on September 27, 2002, the trial court concluded Lundahl presented insufficient evidence to vacate registration on any of these grounds. On Lundahl’s claim that the Utah orders were void for lack of subject matter jurisdiction, the court specifically found: “The Utah Court had jurisdiction to make the orders because there was concurrent jurisdiction in both Utah and California.” The court confirmed registration of each of the Utah orders and ordered “all stays on enforcement lifted.”

The court “reserve[d] on the issue of the amount of arrears owed” and a hearing was eventually scheduled for several months later. In an abundance of caution, Lundahl appealed the trial court’s denial of his petition to vacate registration of the Utah orders, and also sought a writ of supercedeas to stay enforcement of the registered orders. We denied the petition seeking writ relief. Meanwhile, in its ruling denying Lundahl’s

petition to vacate registration, the trial court had ordered “the District Attorney’s Office to use its best efforts to prepare an accounting of arrears” and mail it to the parties. On being apprised of Lundahl’s appeal, the trial court deferred the accounting pending our decision in this matter.

II

DISCUSSION

A. Augmentation

Preliminarily, we address Telford’s motion to augment the record. (Cal. Rules of Court, rule 12(a).) The materials she submits for augmentation that were not before the trial court, including information regarding her disability and assistance she received from her church, cannot be made part of the record. “Augmentation does not function to supplement the record with materials not before the trial court.” (*Vons Companies, Inc. v. Seabest Foods, Inc.* (1996) 14 Cal.4th 434, 444, fn. 3.) We therefore deny the motion.

B. The Order Is Appealable

As noted above, the trial court scheduled a subsequent hearing to determine the amount of arrears. Although respondents did not contest Lundahl’s right to appeal, we requested further briefing on whether the appeal should be dismissed under the “one final judgment rule.” (See *First Security Bank of Cal. v. Paquet* (2002) 98 Cal.App.4th 468, 473 [existence of appealable judgment is a jurisdictional prerequisite and reviewing court must raise on own motion].) “The ‘one final judgment’ rule provides that an appeal may be taken from a final judgment, but not an interlocutory judgment.” (*Id.* at p. 472; Code Civ. Proc., § 904.1, subd. (a)(1) [generally barring appeal from interlocutory

judgments].) “The well-known final judgment rule that governs general civil appeals was designed to prevent costly piecemeal dispositions and multiple reviews which burden the courts and impede the judicial process.” (*Maranian v. Worker’s Comp. Appeals Bd.* (2000) 81 Cal.App.4th 1068, 1073.)

Yet “[a] decree is none the less final because some future orders of the court may become necessary to carry it into effect; . . . nor because, when the merits of the controversy are adjudicated upon, and the equities of the parties definitely settled, an account is directed to be taken to ascertain what sum is due from one to the other, as the result of the decision made by the court’ [citation] . . .” (*Guaranty Trust & Savings Bank v. City of Los Angeles* (1921) 186 Cal. 110, 116-117.) “‘If the judgment stand the test of the inquiry as to whether it disposes of the merits of the action, and terminates the controverted issues, the fact that further proceedings remain to be taken in court to make it effective does not affect its finality.’ [Citation.]” (*Ibid.*; accord *Warmington Old Town Associates v. Tustin Unified School Dist.* (2002) 101 Cal.App.4th 840, 848-849.)

Here, the court resolved Lundahl’s attempt to vacate registration of the Utah orders on the merits, leaving only the calculation of arrearages. “[M]ost courts recognize the general rule that finality for purposes of appeal is not necessarily destroyed by reason of a provision for future accounting. The determinative factor is whether the equities have been finally adjudicated or the rights of the parties ascertained and finally determined.” (Annot., *Finality of Judgment or Decree for Purposes of Review as Affected by Provision for Future Accounting* (1949) 3 A.L.R.2d 342, 346.) As our Supreme Court has explained, a judicial determination “‘is final “when it terminates the litigation between the parties on the merits of the case and leaves nothing to be done but to enforce by execution what has been determined.”’ [Citations.]” (*Sullivan v. Delta Air*

Lines, Inc. (1997) 15 Cal.4th 288, 304.) With denial of Lundahl’s petition to vacate registration and the lifting of “all stays on enforcement” on the registered orders, Lundahl’s assets became subject to execution. The trial court’s order adjudicated the merits of the case, and is therefore appealable.⁴

C. Jurisdictional Claims

Lundahl’s sole contention on appeal is that the Utah orders were void for lack of subject matter jurisdiction because the parties’ 1977 divorce in California invested California with exclusive jurisdiction over spousal support. He argues the Utah orders were thus unenforceable and the court erred by not vacating registration. Section 4956, subdivision (5), requires registration of a support order to be vacated where a defense to enforcement exists under state law. ““A void judgment or order is, in legal effect, no judgment,”” and cannot be enforced. (*Rochin v. Pat Johnson Manufacturing Co.* (1998) 67 Cal.App.4th 1228, 1240; cf. Cal. Law Revision Com. com., 19A West’s Ann. Code Civ. Proc. (1982 ed.) foll. § 1710.40, p. 694 [“Common defenses to enforcement of a sister state judgment include . . . [that] the judgment was rendered in excess of jurisdiction . . . ”].) Whether California had sole subject matter jurisdiction over spousal support is a question of law that we review de novo. (See *Robbins v. Foothill Nissan* (1994) 22 Cal.App.4th 1769, 1774 [subject matter jurisdiction is a matter of law].)

⁴ *Cowan v. Moreno* (Tex.Ct.App. 1995) 903 S.W.2d 119 is not to the contrary. There, in an appeal from an attempt to register an order of support under UIFSA, the court determined an order leaving arrears to be determined was not appealable under Texas’s one final judgment rule. But the reviewing court noted that, in addition to arrears, the trial court “expressly declined to rule on the merits of the [registration] petition” (*Id.* at p. 124.) Thus, the court distinguished “those cases” where “the substantive rights of the parties had been settled and the only issue was enforcement.” (*Ibid.*) Here, the substantive rights of the parties have been settled by a final decision, and the appeal is therefore properly before us.

1. No Reservation of Exclusive Jurisdiction in Divorce Decree

The terms of the 1977 California divorce decree do not support Lundahl's claim it vested the state with exclusive jurisdiction over spousal support. Lundahl seizes upon the final paragraph of the divorce decree, labeled "*Reservation of Jurisdiction*," which states: "The court reserves jurisdiction of the above-entitled matter and as to all such issues as may be necessary to effect the purposes and intent of this order." The word "exclusive" is simply not present in this language. We may not insert terms into a document that are not there (Code Civ. Proc., § 1858), and a fortiori, nor may a party. Lundahl also relies on our 1997 opinion in the prior appeal between the parties in which we concluded "the [trial] court, pursuant to the dissolution judgment, maintained jurisdiction over the parties and spousal support." But the issue there was whether the trial court had jurisdiction, not whether its jurisdiction was exclusive. Because the issue was not raised, our opinion did not decide that jurisdiction in California precluded jurisdiction in Utah. (*San Diego Gas & Electric Co. v. Superior Court* (1996) 13 Cal.4th 893, 943 ["[c]ases are not authority, of course, for issues not raised or resolved"].)

2. No Exclusive Jurisdiction Under RURESA

Lundahl's argument under RURESA is similarly without merit. He contends: "Under RURESA, the Utah orders are surplusage and do not and cannot create greater liabilities than that imposed by the California dissolution court." RURESA was in effect in California at the time of the 1977 divorce decree through the 1994 order reducing spousal support to \$500 a month.⁵ It also covered the 1991, 1993, and 1995

⁵ California adopted RURESA in 1968 (see *Scott v. Superior Court* (1984) 156 Cal.App.3d 577, 584), and in 1994 recodified it under the Family Code without substantive change. (See *In re Marriage of Chester* (1995) 37 Cal.App.4th 1624, 1630 &

Utah orders, but not the 1999 Utah arreages order, which we discuss separately below.⁶ Contrary to Lundahl’s assertion, both Utah and California expressly recognize that RURESA sister states may issue independent support orders for differing amounts without having modified, superceded, or nullified each other’s orders. (See, e.g., *Kammersell v. Kammersell* (Utah 1990) 792 P.2d 496, 498; *In re Marriage of Popenhager* (1979) 99 Cal.App.3d 514, 521.) Thus, an obligor spouse was confronted with the very real possibility of “multiple and perhaps inconsistent orders enforceable against him.” (*In re Marriage of Straeck* (1984) 156 Cal.App.3d 617, 624.) The court in *Straeck* concluded, “While sympathetic to an obligor placed in this dilemma, our reply is that RURESA contemplates and allows this result.” (*Ibid.*; accord *Kammersell v. Kammersell*, *supra*, 792 P.2d at p. 498 [“This is currently the view of a majority of jurisdictions that have adopted URESA or RURESA”].)

This view was grounded in section 31 of RURESA and section 30 of the former uniform act, URESA. As described in detail by an annotation, “Section 30 of [URESAs] provided that ‘no order of support issued by a court of this state when acting as a responding state shall supersede any other order of support but the amounts for a particular period paid pursuant to either order shall be credited against amounts accruing or accrued for the same period under both.’ In [RURESA], the substance of § 30 of [URESAs] was transferred, with slight modification, to § 31, which states that a support

fn. 4.) In 1998, California repealed RURESA and UIFSA became effective. (Stats. 1997, ch. 194 (S.B. 568), § 2, codified at Fam. Code, §§ 4900 to 4976.)

⁶ Utah adopted RURESA in 1980. (Utah Laws 1980, ch. 15, § 2, codified at former Utah Code (1953) §§ 77-31-1 to 77-31-39.) RURESA remained in effect until UIFSA was substituted in 1997. (Utah Laws 1996, ch. 149, § 2; see also Utah Laws 1997, ch. 232, renumbering UIFSA codification at Utah Code (1953) §§ 78-45f-100 to 78-45f-901.)

order made by a court of this state pursuant to this Act does not nullify and is not nullified by a support order made by a court of this state pursuant to any other law or by a support order made by a court of any other state pursuant to a substantially similar Act or any other law, regardless of priority of issuance, unless otherwise specifically provided by the court. Amounts paid for a particular period pursuant to any support order made by the court of another state shall be credited against the amounts accruing or accrued for the same period under any support order made by the court of this state.” (Annot., Construction and Effect of Provision of Uniform Reciprocal Enforcement of Support Act That No Support Order Shall Supersede or Nullify Any Other Order (1984) 31 A.L.R.4th 347, 351-352 (Annotation).)

Notably, RURESA did not distinguish between child support orders and spousal support orders. (See UIFSA Com., 29D West’s Ann. Fam. Code (2004 supp.) foll. § 4914, pp. 307-308 [under UIFSA, “[a]n order for spousal support is treated differently than an order for child support. . . . This marks a radical departure from RURESA, which treated spousal and child support orders identically”].) Hence, the principles articulated for RURESA child support orders apply equally to spousal support orders. In particular, a court “is not prevented from entering a child support order different from that previously ordered, on the basis that such an award is effective prospectively only, and thus the court is not nullifying or superseding the prior order within the meaning of the provision In such cases, the courts have reasoned that proceedings under the Act are *de novo*, in that the responding court has the authority to make an independent determination regarding the duty of support based on presently existing conditions, that the remedies under the Act are in addition to and not in substitution for any other remedies, and that the Act contemplates that more than one

order of support may be outstanding at any given time for the same obligation.”

(Annotation, *supra*, 31 A.L.R.4th at p. 352, fns. deleted.)

Concisely stated, under RURESA: “[N]ew support orders do not nullify, modify, or supersede the original support decree, but instead provide an additional, supplementary or cumulative remedy. [Citations.] Amounts paid under one support order are credited against amounts accruing or accrued for the same period under another support order. This latter language necessarily contemplates that two or more support orders may be outstanding and valid at the same time. [Citations.] Thus, ‘the authority of the court originally ordering payment is not affected nor is its order modified by an order of the court of the responding state fixing another or different sum.’ [Citation.]” (*Thompson v. Thompson* (S.D. 1985) 366 N.W.2d 845, 847-848.)

This result “oftentimes works to the detriment of the obligor, usually the husband, since even if the responding court in a URESA [or RURESA] proceeding prospectively reduces the amount of support owed, he may still be obligated for the full amount of support as determined by the original child support order . . . , although under the antinullification provision of the Act, he will get credit for any amounts paid pursuant to an order made under the Act.” (Annotation, *supra*, 31 A.L.R.4th at p. 354; accord *Oglesby v. Oglesby* (1973) 510 P.2d 1106, 1107-1108 [reduction of support by Washington court did not relieve husband of higher obligation owed under earlier Utah divorce decree].) Because RURESA contemplates that “more than one order of support may be outstanding at any given time for the same obligation” (Annotation, *supra*, 31 A.L.R.4th at p. 352), Lundahl’s argument that the California divorce decree was controlling, and that the subsequent Utah support orders were void under RURESA, is simply wrong.

3. *UIFSA Does Not Determine Controlling Order for Spousal Support*

Switching tacks, Lundahl next argues that under new provisions in UIFSA, which superceded RURESA in Utah in 1997 and in California in 1998, California family courts retained “continuing, exclusive jurisdiction” over spousal support. Lundahl misreads UIFSA. True, UIFSA “was developed to improve the two prior uniform laws concerning enforcement of family support orders, URESA and the Revised Uniform Reciprocal Enforcement of Support Act (RURESA). [Citation.]” (*Child Support Enforcement Div. of Alaska v. Brenckle* (Mass. 1997) 675 N.E.2d 390, 392.) And “UIFSA aims to cure the problem of conflicting support orders entered by multiple courts, and provides for the exercise of continuing, exclusive jurisdiction by one tribunal over support orders. [Citation.]” (*Ibid.* [construing UIFSA in context of child support enforcement action].) But as we discuss below, UIFSA’s mechanism for establishing a “controlling order” applies only to multiple *child* support orders. (See Sampson, Uniform Interstate Family Support Act (With Unofficial Annotations) (1993) 27 Fam. L.Q. 93, 121 n.69 [UIFSA’s “avoidance of interstate modification of alimony decrees reflects, at least in part, the disinterest in the topic of the Drafting Committee and its co-reporters, advisors and observers. Throughout the revision process the focus of all concerned was almost entirely on child support”]; cf. Hatamyar, Critical Applications and Proposals for Improvement of the Uniform Interstate Family Support Act and the Full Faith and Credit for Child Support Orders Act (1997) 71 St. John’s L.Rev. 1, 22 [“The drafters apparently crafted UIFSA’s rules concerning simultaneous proceedings in two states with child support, not spousal support, in mind”].)

Lundahl seizes on the fact that, for both child support orders *and* spousal support orders, UIFSA provides for “continuing, exclusive jurisdiction” in the court issuing the order. (§ 4909, subd. (a) [regarding child support orders]; § 4909, subd. (f) [regarding spousal support orders].) Section 4909, subdivision (f), states in relevant part, “A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation.” But as courts have recognized, there can be under UIFSA — however paradoxical — multiple sister state tribunals having “continuing, exclusive jurisdiction.” (See, e.g., *In re Parenzan* (2001) 727 N.Y.S.2d 163, 168 [when more than one state has issued a support order, “UIFSA acknowledges that more than one tribunal could have continuing, exclusive jurisdiction under UIFSA . . .”]; see also § 4911, subd. (b)(2) [describing procedure for settling on a “controlling” *child* support order when “more than one of the tribunals would have continuing, exclusive jurisdiction under this chapter . . .”].)

The official comment to the definition section of UIFSA, codified at section 4901, is instructive: “Until valid orders issued under [URESAs and RURESAs] expire of their own terms or are replaced by new UIFSA orders, the support orders themselves will continue to have vitality In short, UIFSA is specifically designed to function with the earlier acts without conflict. Support orders issued under one of the earlier acts should be honored and enforced in every State. . . . States are directed to accord full enforcement remedies to support orders issued under the prior acts, but they must apply UIFSA restraint regarding modification. In situations involving multiple orders created under the former system, UIFSA mandates the application of its one-order rules to determine the single order that is entitled to prospective enforcement, *see* Section 207

[Fam. Code, § 4911], *infra.*” (UIFSA Com., 29D West’s Ann. Fam. Code (2004 supp.) foll. § 4901, pp. 285; see generally *Smith v. Superior Court* (1977) 68 Cal.App.3d 457, 463 [commissioners’ comments entitled to ““substantial weight in construing the statutes””].)

Section 207 of UIFSA, entitled “Recognition of controlling child-support order” as codified in section 4911, describes the procedure for settling on a “controlling” order when two or more *child* support orders exist. Subdivision (b) of section 4911 provides: “If a proceeding is brought under this chapter, and two or more *child* support orders have been issued by tribunals of this state or another state with regard to the same obligor and child, a tribunal of this state shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction: [¶] (1) If only one of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal controls and shall be so recognized. [¶] (2) *If more than one of the tribunals would have continuing, exclusive jurisdiction under this chapter, an order issued by a tribunal in the current home state of the child controls and shall be so recognized, but if an order has not been issued in the current home state of the child, the order most recently issued controls and shall be so recognized.* [¶] (3) If none of the tribunals would have continuing, exclusive jurisdiction under this chapter, the tribunal of this state having jurisdiction over the parties shall issue a *child* support order, which controls and shall be so recognized.” (Italics added.) The controlling order is prospective only (§ 4909, subd. (c)), so sections 4913 and 4913.5 provide for credit of payments on one or more past support orders against obligations owed on other orders.

The drafters explained the intended effect of sections 4911, 4913, and 4913.5 as follows: “Sections 207 [§ 4911] and 209-210 [§§ 4913-4913.5] are designed to

span the gulf between the one-order system created by UIFSA and the multiple-order system previously in place under RURESA and URESA. UIFSA necessarily must provide transitional procedures for the eventual elimination of existing multiple support orders in an expeditious and efficient manner. But, even though all U.S. jurisdictions enacted UIFSA by 1998, many years will pass before its one-order system will be completely in place. Multiple orders covering the same parties and child number in the hundreds of thousands; it can be reasonably anticipated that some of these orders will continue in effect until nearly 2020. To begin the journey toward a one-order system, however, this section provides a relatively simple procedure designed to identify a single viable order that will be entitled to prospective enforcement in every UIFSA State.” (UIFSA Com., 29D West’s Ann. Fam. Code (2004 supp.) foll. § 4911, p. 302.) To be sure, the comment speaks broadly of a “single viable order,” but that language must be read in the context of the section commented upon — section 4911. By its terms section 4911 resolves the multiple order systems of URESA and RURESA into a one-order system only for child support, not spousal support.

The adoption of UIFSA has narrowed the options for obligors like Lundahl. Under URESA and RURESA, new support orders in a sister state were deemed to be a cumulative remedy, *not* a modification of the original order. But these statutes also provided for modification of a court order from a sister state, if the modification was litigated and noted explicitly on the new order. (*In re Marriage of Straeck*, *supra*, 156 Cal.App.3d at p. 625 [“the obligor could request that the court specifically provide that the new order supersedes or modifies all other orders . . .”]; accord *In re Marriage of*

Ward (1994) 29 Cal.App.4th 1452, 1456.) An obligor could thus gain protection against multiple orders by securing a statement of express modification in the new order.⁷

But UIFSA now permits modification of a spousal support order only by the court issuing the order. Section 4909, subdivision (f), states: “A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.” As such, “the CEJ [Continuing, Exclusive Jurisdiction] of the issuing State over a spousal support order is permanent” (UIFSA Com., 29D West’s Ann. Fam. Code (2004 supp.) foll. § 4909, p. 297.) The UIFSA drafters explain: “Under UIFSA, ‘interstate’ modification of spousal support is limited to a procedure whereby a proceeding may be initiated outside of the issuing State, but only the tribunal in the original issuing State may modify the order under its law. This approach was expected to have minimal effect on actual practice, a prediction that appears to have been accurate. Interstate modification of pure

⁷ This provision in URESA and RURESAs for express modification distinguishes the litany of inapposite Utah cases relied upon by Lundahl. In *Bankler v. Bankler* (Utah Ct.App. 1998) 963 P.2d 797, 800, the court stated: “Actions to modify a divorce decree should ‘properly be brought in the forum which issued the decree.’ [Citation.] ‘[T]he court issuing the original decree retains exclusive jurisdiction to modify its decrees. Parties wishing to modify a decree must do so *in the original forum*.’” But in *Bankler*, the issue was domestication of a sister state divorce decree under the Utah Foreign Judgment Act, not express modification of the decree under RURESAs or entry of an independent support order as permitted by the act. Similarly, *Rimensburger v. Rimensburger* (Utah Ct.App. 1992) 841 P.2d 709, 711, did not involve modification of an another state court’s judgment under RURESAs, but rather modification by one Utah court of a divorce decree issued by another Utah court, long prohibited by Utah venue precedent. And *Christensen v. Christensen* (Utah 1925) 239 P. 501, 503, in which the court held, “an application like the one in question here [intrastate support modification] should be made in the original divorce action and not by an independent proceeding,” predated RURESAs by decades. Again, “[c]ases are not authority, of course, for issues not raised or resolved.” (*San Diego Gas & Electric Co. v. Superior Court*, *supra*, 13 Cal.4th at p. 943; accord *Salt Lake Inv. Co. v. Oregon Short Line R. Co.* (Utah 1914) 148 P. 439, 444.)