



# ESSENTIALS OF CALIFORNIA FAMILY LAW

**A Concise and Informational  
Summary of California Family Law  
In Easy To Read Outline Form**

**Complete with case law  
and statutory references to important  
laws and cases in this area**

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### **Notes on abbreviations:**

Throughout this text various abbreviations are used. They include the following:

**AFDC:** Aid to Families with Dependent Children (welfare)

**ATRO’S:** Automatic Temporary Restraining Orders

**ATTY:** attorney

**AVD:** alternate valuation date

**BK:** bankruptcy

**CA:** Court of Appeal (sometimes California)

**CASDI:** California state disability income

**CC:** California Civil Code

**CCP:** California Code of Civil Procedure

**CEJ:** Continuing exclusive jurisdiction

**CP:** community property

**CRC:** California Rules of Court

**CYA:** “cover your a\_ \_”

**CZ:** cubic zirconium

**DOS:** date of separation

**DRO:** domestic relations order

**DRTRA:** Domestic Relations Tax Reform Act

**DV:** domestic violence

**DVPA:** Domestic Violence Prevention Act

**EC:** California Evidence Code

**EIC: Earned income credit**  
**FC: California Family Code**  
**FICA: Social security**  
**FIT: Federal income tax**  
**FLARPL: Family Law Attorney Real Property Lien**  
**FN: footnote**  
**FPKPA: Federal Parental Prevention of Kidnapping Act**  
**GDL: Guideline child support**  
**H: husband**  
**HH/MLA: Head of Household/Married Living Apart**  
**HTTP: High timeshare parent**  
**IPKCA: International Parental Kidnapping Crime Act**  
**IRC: Internal Revenue Code**  
**IRMO: In Re the Marriage Of**  
**JTR: Joint tax return**  
**LCSA: Local County Support Agency**  
**LTP: Low timeshare parent**  
**MFJ: Married filing joint**  
**MFS: Married filing single**  
**MSA: Marital Settlement Agreement**  
**MSOL: Marital standard of living**  
**NBM: non-biological mother:**  
**NMI: New mate income**  
**OSC: Order to Show Cause (a court hearing)**  
**PAS: Parental Alienation Syndrome**  
**PI: personal injury**  
**QCP: Quasi community property**  
**QDRO: Qualified Domestic Relations Order**  
**RDP: registered domestic partnership**  
**SCT: Supreme Court**  
**SDI: State disability income**

**SIT: State income tax**

**SOD: statement of decision**

**SOL: statute of limitation**

**SP: separate property**

**SS: Spousal Support**

**TCT: Trial Court**

**TRO: Temporary Restraining Order**

**UCCJA: Uniform Child Custody Jurisdiction Act**

**UCCJEA: Uniform Child Custody and Jurisdiction Act**

**UDRA: Uniform Divorce Recognition Act**

**W: wife**

## Actions

- I. Subject Matter Jurisdiction
  - A. The initial point of analysis in any family law case is whether the court has the power to hear a case. Power is derived from subject matter jurisdiction.
  - B. Always draw the distinction between personal jurisdiction (the power of the court to render a money judgment over a person) and subject matter jurisdiction (the power of a court to entertain the case).
  - C. Fairness is irrelevant
    1. Always ask two questions:
      - a. Does the court have subject matter jurisdiction, and
      - b. Does the court have personal jurisdiction?
      - c. Answer these questions yes or no. If the answer is yes, the subject matter jurisdiction must come from some statute. Some specific source of statutory law must have given the court the power to hear the case.
  - D. Once subject matter jurisdiction is observed, the inquiry turns to whether this jurisdiction has been granted conditionally or if there is any restriction on it.
  - E. There are a variety of statutes in the family code that provide the court with subject matter jurisdiction. For example, section 2650 authorizes the court to divide the separate property interests of the parties.
  - F. Note the constitutional requirements of “full faith and credit” (essentially, every state has the obligation to give full faith and credit to the laws and rulings of every other state [in most circumstances]).
    - a. The Constitutional requirement of notice and opportunity to participate in the foreign proceeding is essential to giving full faith and credit.
    - b. What about same-sex marriages? Some states have allowed them and many others have specifically disallowed them. How does this jive with the requirement of “full faith and credit”?
      1. In 1999 the US Congress passed a law that gives states the right to refuse full faith and credit in issues concerning same sex marriages.
- II. Domicile Requirement
  - A. At least one party to California dissolution must be domiciled in California. Only one is necessary, however.
  - B. Domicile equals physical presence plus intention to remain indefinitely.
  - C. The state has the power to exercise jurisdiction over an individual who is physically present in its territory. This primarily has to do with personal jurisdiction (see below).
  - D. Subject matter jurisdiction for Nullity and Legal Separation is satisfied by residence only; there is no minimum time requirement.

- III. Residence
  - A. At least one party must have been a resident of the state of California for at least 6 months, and in the county in which the divorce is proceeding for 3 months prior to filing. There is, however, no such time requirement for Nullity and Legal Separation
  
- IV. Divisible Divorce
  - A. It is possible for the court to render decisions on part of a case that has already been decided as to some other part in some other jurisdiction. For example, if another jurisdiction has decided a case, California will still have subject matter jurisdiction to decide some other aspect of that case that has not been previously decided.
  
- V. Collateral Attack
  - A. Sometimes, a party will be denied the right to object to subject matter jurisdiction.
    - 1. If the court exercises jurisdiction it doesn't have, and both parties go along with that, then they cannot later object.
  
- VI. The Sherrer Doctrine: if both parties participate in a dissolution that the court actually has no jurisdictional authority over, they will be treated as if the court *did* have jurisdiction.
  
- VII. UDRA (Uniform Divorce Recognition Act – FC sec. 2090)
  - A. If California residents go out of the state of California for a divorce, and do not otherwise meet the UDRA requirements, that dissolution will not be recognized in California. For example, a South Dakota dissolution by California residents will not be recognized in California pursuant to the terms of the UDRA.
  - B. The UDRA has almost never been used successfully.
  
- VIII. Representative Cases:
  - A. *IRMO Dick*
    - 1. Wife files for legal separation. Husband files for dissolution. Husband is in the state on a tourist visa from Canada (i.e., he is clearly a visitor, not a domiciliary).
    - 2. Court rules that residence, as a matter of policy, should not depend on national visa policies and the like. If H is here and has established a residence here, that will be good enough to allow the court to exercise jurisdiction over the subject matter of the dissolution, regardless of the initial reason for being here.
      - a. Visa and immigration rules do not control over civil residence requirements.

B. *IRMO Gray* (Divisible Divorce)

1. It is okay to split the divorce case into different pieces in different jurisdictions. Husband can't dissolve the status of his marriage in the District of Columbia because he is in contempt and their rules prohibit that. He moves to California, establishes residency, and seeks status dissolution. The request is granted. Court rules that once the jurisdictional requirements are met the status dissolution cannot be denied.

C. *IRMO Purnel* (Preemption)

1. Mother is an American Indian and contends that her tribal trust income is off-limits as a matter of tribal and federal law. The federal law provides that the tribal trust money cannot be attached. She claims preemption of jurisdiction pursuant to this federal law.
2. The trial court enters a child support order against mother, citing that it is not saying where the money should come from to satisfy the order. Rather, simply that the money exists and creates an ability on mother's part to pay the money.
3. This is affirmed by the appellate court. The distinction is that the trial court did not indicate that the trust money had to be used to satisfy the child support award. Note that the trust money is, in fact, not available for execution. However, once it is in mother's hands, then it would be.

D. *IRMO Zaragoza* (Waiver)

1. In this case, another jurisdiction (Nevada) not only had started the case (like Gray) but it finished it as well, and granted the dissolution of marriage. Nevertheless, mother relocated to California and filed a California divorce case. Husband did not say anything about the Nevada case until the time of trial in the California case, at which point he raised the Nevada dissolution as a bar to the action.
2. The appellate court found that the husband had *waived* his jurisdictional objection because he did not raise it in his initial filing. [**PACTICE TIP:** a motion to quash must be raised within 30 days or it is waived. Attorney ignorance will not save an untimely filing. One must raise these jurisdictional issues as soon as possible.] Any legitimate subject matter objection must be made right away, or it is deemed waived.
3. Note that this is contra to the general rule in law school that subject matter jurisdiction cannot be waived. Under current modern law, it can, and sometimes is.
4. The Court discussed that child support is a societal duty and it must be satisfied, regardless of where the money comes from. Here, the trial court said that the source of the money might be exempt from direct attachment, but once the money is in the hands of the recipient it is fair game.

IX. Venue

- A. Section 395 CCP: Venue for disso lies in the county in which the petitioner or the respondent has resided for 3 months before filing the petition. Only one, petitioner or respondent needs to qualify for subject matter jurisdiction.
- B. In a nullity or legal separation action, the county where either party lived when the petition was filed is okay.
- C. Per CCP 397.5, if both parties have moved out of the county, the court can exercise its jurisdiction to transfer the case to either the county where the petitioner resides, or respondent resides, or, most likely where the children are.
  - 1. There is no power to transfer venue in a general family law case simply because one party has moved out of the county. This of course is post dissolution.

X. Interstate Custody

- A. UCCJEA (Uniform Child Custody Jurisdiction and Enforcement Act): Section 3400, et seq. These are exceptions to the general venue rules due to public policy considerations.
  - 1. UCCJEA replaces UCCJA.
  - 2. UCCJEA similar to FPKPA (Federal Parental Kidnapping Prevention Act).
  - 3. UCCJA did not give first priority to the child's home state in determining jurisdiction over interstate custody disputes, nor did it provide for continuing, exclusive jurisdiction in the state that entered the decree as long as any party to the dispute remained in the state or had a connection to it.
    - a. UCCJEA conforms to FPKPA to provide these factors. It also beefs up enforcement of custody and visitation orders on an interstate basis.
- B. Distinctions between UCCJEA and UCCJA (Important for Exam):
  - 1. The policy reason behind UCCJEA is to prevent forum shopping. Without these rules limiting the court's exercise of jurisdiction, there could be several conflicting orders.
  - 2. UCCJEA is not a federal act. It is federally mandated. It is the second generation of the UCCJA. Not every state has adopted UCCJEA, but most of them have.
  - 3. Whether the other jurisdiction has adopted UCCJEA or not, California is required to follow the provisions of UCCJEA.
  - 4. UCCJEA is not retroactive.
  - 5. UCCJEA applies to any proceeding in which legal custody, physical custody, or visitation is in issue. It applies to all child related cases, with the exception of adoption.
  - 6. UCCJEA integrates with the FPKPA in the following respects:
    - a. Priority is given to the home state.
      - i. UCCJA simply made the home state one of four equal bases for jurisdiction. Now, as with the

FPKPA, home state is the priority. The other bases for jurisdiction (significant contacts, emergency jurisdiction and vacuum jurisdiction) are secondary and subordinate to home state.

- b. The definition of the home state is where the child has lived for at least 6 months preceding the filing. If there are multiple children, that could mean that there are multiple home states, and each home state will have to be given deference as to that particular child.
7. Continuing exclusive jurisdiction (CEJ) is the hallmark of UCCJEA. Once a state acquires subject matter jurisdiction under UCCJEA (usually using the home state test) that decree state retains CEJ, even in the face of a lot of other changes in the case, so long as at least one party remains in that jurisdiction.
  8. The issuing state will retain CEJ until:
    - a. The issuing state decides that there are no significant contacts and no substantial evidence, or,
    - b. The issuing state or the modifying state determines that the child and the parents have all moved away.
    - c. This is known as the “Kumar” rule, from that 1982 case. The Kumar holding is now codified by these provisions.
  9. “Emergency” has been clarified:
    - a. Under the UCCJA, one of the 4 equal bases for asserting jurisdiction was “emergency.” (Example: A child is reported abused, things of this nature, would authorize the issuing state to take jurisdiction away from whatever state otherwise had it. This is no longer the case.)
    - b. Emergency jurisdiction orders under UCCJEA are temporary only. (Fam. Code 3424).
    - c. Even if there is no currently pending matter in the decree state, the only thing that a California court can do under emergency jurisdiction is assert the emergency on a temporary basis and immediately contact the home state to arrange for transfer back there.
      - i. The emergency order is effective until the new order is made in the decree state.
    - d. In light of the temporary nature of the emergency order, California must immediately contact the issuing or decree state court and communicate on a more formalized basis with that court regarding this matter.
      - i. Under UCCJA, contact was required, but undefined. Under UCCJEA, the contact is defined and absolutely required.

- ii. Additionally, the court must make a record of all communication of a substantive nature.
- iii. The court must promptly inform the parties and may allow the parties to participate. The parties must be given a right to present their factual and legal argument before the decision on jurisdiction is made.
- iv. A conference call with the issuing state is mandatory.
- v. Vacuum jurisdiction is still around and available. Its actual application in practice is, however, highly unlikely.

10. Inconvenient Forum Determination:

- a. The UCCJA was more liberal with regard to inconvenient forum. Under UCCJEA, although this test does apply, it is rarely used because the statute provides other remedies that are available to solve the problems of inconvenient forum.
  - i. For example, a party claims that they cannot afford to litigate the case out of state in the issuing state due to the costs involved. UCCJEA provides provisions for travel expenses and the like.

11. Unjustifiable Conduct Rule:

- a. A party cannot create a home state by improperly moving the child into a new state.
- b. The court (and we upon an examination) must examine the initial move away from the initial state to determine if it falls into the category of unjustifiable conduct.

C. Enforcement Mechanisms:

- 1. UCCJEA expanded and created an expedited enforcement remedy, requiring petition and registration of a forum order, with a hearing as soon as is reasonably possible, and expedited it in an emergency situation.

D. Miscellaneous:

- 1. The district attorney is given an optional role in enforcement (Fam. Code sec 3456);.
- 2. It applies to international cases (Fam. Code sec. 3405).
- 3. Family Code section 9210 adapts the UCCJEA to adoptions. Those rules are very similar.

E.

Representative Cases

1. In re C.T. (the most important procedural case in this area)
  - a. This case recognizes that the exercise of emergency jurisdiction under UCCJEA triggers an absolute and immediate obligation to contact the issuing state. As soon as California knows that the issuing state can in fact deal with the case, California must let go of the case and send it back to that state.

F. FPKPA (Federal Parental Kidnapping Prevention Act)

1. This was the groundwork for the UCCJEA and is fundamentally the same. Under both the UCCJEA and the FPKPA, the fundamental question is “does at least one party still resides in the issuing state?” If yes, then the rule applies and the matter must be sent back to the issuing state.
  - a. Note that the FPKPA also applies to visitation by non parents (grandparents, etc.)

G. International Law/Hague Convention

1. The Hague Convention is an international treaty signed by many countries to provide for the return of a child wrongfully taken from its place “habitual residence.” The purpose of the statute is not to determine the merits of who should have custody. Rather, it simply is to determine where that determination should be made. Typically this arises when someone removes a child from a foreign jurisdiction and comes here (to California). The petitioning party is usually the person in the foreign jurisdiction. That persona has two choices at that point” one, bring the action in Federal Court or two, bring a UCCJEA action in state court. There is concurrent jurisdiction between the Federal court and the State courts. This is rare and only arises in this Hague Convention context. Note that the responding party is stuck with the choice made; they cannot force the action into the other jurisdiction.

When analyzing these cases, the petitioning party must decide whether they want the case heard in Federal or State court. Which jurisdiction is “better” form their perspective, and will yield a better result for them. There is a general guidelines in this context: If the child has been absent from the home jurisdiction less than one year, if Hague applies the child **must** be returned. The Hague convention is basically an enforcement statute. If the facts fit, the child must be returned.

- a. The fundamental question is what is the habitual residence of the child? This is a factual determination and will be made by the court, whose discretion will not be overturned generally in the

absence of something really dramatic. (The question is where the child has living for the past year [typically] per the mutual consent of the parties, not a place of temporary “residence.”)

- b. Applies to children under 16 years of age only. Does not apply to 16 and over since children have a strong voice to determine where they wish to live in any event.
- c. The action must be brought within one year of the child’s removal, unless the facts show the child’s whereabouts had been deliberately concealed during that year.

2. Defenses to Hague Convention Case

- a. The petitioner has failed to exercise their custodial rights.
- b. The petitioner consented to the taking.
- c. There is a grave risk that return would expose the child to physical or psychological harm or place the child in an intolerable situation.
  - i. This is the most commonly asserted defense, but this window is closing; the courts are becoming much more strict in their assessment of this defense.
- d. The return would simply shock the conscience and violate fundamental principles of the country where the child has been taken relative to human rights.
- e. When analyzing the defenses, we must be prepared to discuss their existence and their general application. The most common defense is that of grave risk of harm to the child. There is also an interesting question where the parent resisting return claims that she or he was the victim of domestic violence in the other country and that is why they left. The court will have to analyze who the victim was, whether there is a system in place in the country from which the child was removed to address these issues, and things along these lines.

3. The Fundamental Analysis of a Hague Convention Case:

- a. Was there a taking
- b. Of a child
- c. Under the age of 16
- d. From his/her habitual residence
- e. In derogation of a custodial right of the other parent
- f. Where enforcement is sought within one year?

- g. Once all of these questions have been answered with an ultimate yes, then the analysis turns to an examination of whether there are any available defenses to a return to that country:
    - i. Has there been a failure of the parent who is seeking the petition to return to exercise his/her custodial right? Note that the party who has removed the child from the jurisdiction cannot undertake such an act and then make the claim that the other parent is not exercising visitation. In other words, you can't interfere with visitation and then claim that the other party isn't exercising it.
    - ii. Is there in fact grave harm going to befall the child? This is a factual determination, and cannot be bootstrapped by the taking parent. For example, the taking parent cannot bring the child back to California and then claim that it would constitute grave harm to return the child to the country of origin because they are now used to California.
  - h. Once these Hague standards are found by the court, and the court determines that the defenses don't apply, then a decision to return the child to that jurisdiction will be made.
4. Interpretive cases:
- a. *Friedrich v. Friedrich (Friedrich II)*
    - i. Child born in Germany. Mother takes child to the USA; father claims that child should be returned pursuant to Hague Convention. Mother claims that father was not exercising his custodial rights because he did not have a paper granting him custody. The court held that custodial rights are inherent of a parent, and a parent does not need a piece of paper in order to be operating under the color of custodial rights.
    - ii. The mother claimed that grave harm would befall the child because the child was now 5 years of age and had become accustomed to living in the USA. The court denied that argument claiming that, since the mother (the taking parent) had created a grave harm,

she could not then use that as a reason to keep the child in the USA.

- b. *Wipranik*
  - i. Child born in the USA. Dissolution later filed, the parties reconciled and moved to Israel. Three years later mother returns to USA with the child, and the father files a Hague petition in California for return to Israel. Mother opposes claiming that the time in Israel was “temporary” and that the habitual residence was the USA. This argument was rejected by the court as a matter of a factual determination.
  - ii. Next mother claimed that grave harm would befall the child due to the turmoil and violence in Israel. The court found that substantial evidence supported a finding that the child was not at grave risk such as would warrant not returning it to Israel.

#### H. The International Parental Kidnapping Crime Act of 1993 (IPKCA)

- 1. The Hague Convention only applies if all parties (that is to say nations) have signed the treaty. In those situations where a country has not signed the treaty, then enforcement of return of a child who was wrongfully abducted can be sought through various criminal statutes. The most notable of which is the IPKCA. This creates a criminal aspect to this scenario. The criminal court is the pursuing agency here.
  - a. This federal statute makes it a federal crime to remove a child from or retain a child outside the USA if the intent is to obstruct lawful parental rights.
  - b. Child = under age 16
  - c. Parental rights includes visitation rights
  - d. Parental rights includes non parents (grandparents, for example)
  - e. Courts have found that the term “parental rights” is determined by state law.
- 2. Defenses to IPKCA:
  - a. The defendant acted pursuant to a valid effective UCCJEA order.
  - b. The defendant fled an incident or a pattern of domestic violence.

- c. Non return was due to facts beyond the defendant's control and the defendant notified everybody as soon as possible and returned the child as soon as possible.
- d. Hague Convention procedures are the option of first choice in situations such as this. Indeed, the US attorney will not prosecute under this act if the Hague Convention remedies are otherwise available.

I. State Remedy – Family Code section 3048

1. This isn't really a remedy so much as it is a portion of the Family Code that is imposed some specific requirements on family law courts. These requirements basically require that, in any proceeding to determine child custody or visitation, every custody or visitation order shall contain the following:
  - a. Basis for the court's exercise of jurisdiction
  - b. The manner in which notice and opportunity to be heard were given;
  - c. A clear description of the custody and the visitation rights of each party;
  - d. A provision stating that a violation of an order may subject the party to criminal penalties;
  - e. Identification of the country of habitual residence
2. The statute goes on to provide that, in cases in which the court becomes aware of "facts" which may indicate that there is a risk of abduction, the court shall determine whether additional measures are needed to prevent the abduction of the child. The factors that the court will look at are detailed in the code and include:
  - a. Previous abductions
  - b. Threats or previous abductions
  - c. Whether a party lacks "strong ties" to this state
  - d. Whether a party has ties "elsewhere"
  - e. Whether the party is "financially footloose." Bad intent is not necessary here; financially independent, able to work anywhere, things of this nature, will trigger this factor.
  - f. Whether there have been any "removal activities" on the part of the party. This could include quitting a job, terminating a lease, selling a house, closing a bank account; a whole variety of otherwise innocent things.
  - g. Whether there has been any domestic violence
  - h. Whether there is any history of crime

3. If the court is persuaded by its determination relative to these factors, it has a variety of remedies that it can impose against this party. These remedies include:
  - a. Supervised parenting time
  - b. Posting a bond
  - c. Restrictions on removal of the child
  - d. Restrictions on relocation
  - e. The court will take the passports
  - f. The courts can require the party to register at the local consulate on trips.
  - g. The court can require registration of a custody order in some other jurisdiction.
  - h. The court can deny the right to purchase tickets for international travel.
4. Some California courts have adopted a policy of not bringing these factors up. The important thing to remember about this section is that the findings required in it are mandatory, and the factors are discretionary. Many of these factors are innocent and don't require any kind of evil intent. There are much broader factors, and we must wonder what this statute is going to be doing to people who are not from the USA.
  - a. The fact that a person is a foreign national, or has strong familial ties in some foreign country will not be a sufficient factor all by itself to authorize the court to invoke one of the various remedies. Any of the others standing on their own would suffice, but this one alone will not be sufficient.

## XI. Personal Jurisdiction

- A. Similar to subject matter jurisdiction, there is a concept of personal jurisdiction. Personal jurisdiction refers to the court's power not over the subject matter of the lawsuit, but, rather, over the person standing in front of them. The court must have personal jurisdiction over a litigant in order to order them to pay money. In California, this is always a constitutional question, because California's "long arm statute" (CCP 410.10) provides full constitutional reach consistent with federal due process. As such, all of these questions are questions of federal constitutional law.
- B. The most important concept of personal jurisdiction in the state of California is the minimum contacts rule.
  1. Minimum contacts is defined by international shoe as invoking fundamental principles of fair play and substantial justice as would warrant the state exercising jurisdiction against this person.
- C. The most significant case in this area is *Kulko vs. Superior Court* (top 40 cases).

1. Mother and father get a divorce in New York, mother moves to California and father has custody of the children. After a few years, at the children's request, father puts the children on an airplane and sends them to California to live with their mother. Mother thereafter serves father with an OSC for child support, and claims that the mere act of putting the children on the airplane to come to California triggered the minimum contacts rule such as would allow the California court to exercise jurisdiction.
2. This is a US Supreme Court case. The US Supreme Court reversed the court of appeals in this case finding that there were no minimum contacts, no purposeful acts, no financial benefit and no business conducted or tort committed in California.
3. The court indicated that this was not enough the exercise of personal jurisdiction. The Supreme Court said that we should not apply the liberal rules regarding torts to a family law case. The rules should be different from family law. This, in fact, is why the Kulko case is different. It stands for the proposition that we cannot use the tort analysis on a family law case. The policy behind that is as follows: do we want parents to share their kids in other states with the other parent? Yes. Do we want to pound these parents by holding them to personal jurisdiction for civil liability as a "thank you" for sharing their kids? No.

*D. Jamshid-Negad*

1. This case is similar to Kulko. However, this was a tort case, not a family law case (it was a car accident), and as such, the court was allowed to accept jurisdiction.

*E. Modlin*

1. A doctor was doing a little business in California while he is visiting his child. He is attending three medical conferences in the state. Wife seeks to use this as a basis for jurisdiction. The perceived problem is that Kulko seeks to encourage visitation, without punishing the kids. The mother points to the business of the doctor he is doing in the state.
2. The court of appeal granted a writ, and claims that if there was a mixed motive for the visit (here business and child visitation), the court must look to the primary purpose of the visit. It would also appear that the court will bend over backwards to encourage the visitation and child sharing. If the primary purpose was business, and the father just simply decided to spend a little time with the kids while he was here anyway, this might have produced a different result.

*F. Muckle*

1. Husband and wife used to live in California. Husband moves to Georgia and three years later wife files California dissolution. Husband moves to quash saying he is a Georgia resident now. The

trial court felt that the father had an economic connection with the state, but the court of appeals said, “No.”

- a. The minimum contacts must be determined *at the time of the proceeding*. This is a timing case. We cannot use past minimum contacts to justify a present exercise of personal jurisdiction. An open question is how far back we go before we stop recognizing someone as a California resident, and in this case, start recognizing them as a Georgia resident.
- b. Note: Mr. Muckle could not stop the divorce. That is going to happen due to subject matter jurisdiction. What he can stop, however, is the payment of money.

G. *Burnhan “Gotcha” Jurisdiction*

1. Personal jurisdiction will be authorized if the party is physically present in the state when served. This is not a minimum contacts decision. It is squarely against the Kulko decision. Nevertheless, this case says that this is an independent jurisdictional rule. Minimum contacts are irrelevant.
2. The rule is: if the client is here when served, that is enough, regardless of the Kulko decision.

H. The above personal jurisdiction cases turn on personal jurisdiction, not subject matter. For example, the Kulko court could have easily entered a custody order. What it could not do, however, was issue a child support order, since the father did not have personal jurisdiction in California and, as such, California could not order him to pay money.