Study L-750 April 11, 2011

Memorandum 2011-18

Uniform Adult Guardianship Protective Proceedings and Jurisdiction Act (Discussion of Issues)

At the February meeting, the Commission began studying whether the Uniform Adult Guardianship Protective Proceedings and Jurisdiction Act ("UAGPPJA") should be adopted in California. The Commission directed the staff to investigate a number of matters, including the import of the Full Faith and Credit Clause in the UAGPPJA context. This memorandum focuses on that topic.

Attached are two charts prepared by the ABA Commission on Law and Aging:

(1) Reported Cases on Multi-state Guardianship Jurisdiction Issues Supporting Need for the *Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act* (UAGPPJA).
(2) Multi-State Guardianship Jurisdiction Stories Supporting Need for the *Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act* (UAGPPJA).

The first chart compiles court decisions; the second chart compiles stories. Both charts provide concrete examples of the types of scenarios UAGPPJA is intended to address. They should therefore be useful throughout this study.

In preparing the current memorandum, the staff read all of the published cases listed in the first chart. We also conducted additional research. Based on our work thus far, it appears that the chart collects many (but not all) of the recently published court decisions involving interstate legal issues relating to the care of an incapacitated adult. Some of those cases discuss the Full Faith and Credit Clause or similar matters; others do not.

As explained in the memorandum introducing this study (Memorandum 2011-8), California uses the terms "guardian" and "conservator" differently than UAGPPJA. In addition, states vary in how they use those terms. This can be a

Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting.

source of confusion. To minimize such confusion, this memorandum tries to avoid use of those terms and instead expressly mention whether a case involves custody of a minor, personal care of an incapacitated adult, handling the financial affairs of an incapacitated adult, or other circumstances.

FULL FAITH AND CREDIT

UAGPPJA would establish a registration procedure for an out-of-state court order that appoints someone to care for the person or property of an incapacitated adult. Upon completion of the registration process, the appointee could "exercise all powers authorized in the order of appointment except as prohibited under the laws of the registering state." UAGPPJA Art. 4 General Comment.

The Prefatory Note to UAGPPJA explains that the registration procedure is needed because such a court order is not subject to the Full Faith and Credit Clause of the federal Constitution:

> The Full Faith and Credit Clause of the United States Constitution requires that court orders in one state be honored in another state. *But there are exceptions to the full faith and credit doctrine, of which guardianship and protective proceedings is one*.

Prefatory Note to UAGPPJA, p. 2 (emphasis added). The Prefatory Note does not cite any authority in support of this statement.

At the February meeting, the Commission asked the staff to check on the underlying legal basis for the statement. This memorandum reports on what the staff found. As explained below, the statement appears to be an oversimplification, but the crux of it is correct: There is no assurance that a court order appointing someone to care for the person or property of an incapacitated adult will be recognized and enforced in other states.

This memorandum begins by describing the basic principles of the federal full faith and credit doctrine. Next, we describe some exceptions to that doctrine, and recount the history of the doctrine in the child custody context, which is similar in many respects to a determination regarding care of an incapacitated adult. We then discuss cases from across the country that specifically address whether to give full faith and credit to a court order appointing someone to care for the person or property of an incapacitated adult. Finally, we focus on California law on that subject.

Federal Full Faith and Credit Doctrine

The federal constitution requires each state to give full faith and credit to judgments entered in other states:

> Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

U.S. Const. art. IV, § 1. Similarly, a federal statute provides that judgments "shall have the same full faith and credit in every court within the United States and its Territories and Possessions as they have by law or usage in the courts of such State, Territory or Possession from which they are taken." 28 U.S.C. § 1738.

The purpose of the full faith and credit clause is to "establish throughout the federal system the salutary principle of the common law that a litigation once pursued to judgment shall be as conclusive of the rights of the parties in every other court as in that where the judgment was rendered …." *Elkind v. Byck,* 68 Cal. 2d 453, 459, 439 P.2d 316, 67 Cal. Rptr. 404 (1968), *quoting Magnolia Petroleum Co. v. Hunt,* 320 U.S. 430, 439 (1943). As Justice Frankfurter put it:

> The constitutional policy … was the nation-wide restriction of litigiousness, to the extent that States, autonomous for certain purposes, should not be exploited to permit repetitive litigation. In substance, the Framers deemed it against the national welfare for a controversy that was truly litigated in one State to be relitigated in another.

New York ex rel. Halvey v. Halvey, 330 U.S. 610, 616 (1947) (Frankfurter, J., concurring); *see also Kovacs v. Brewer*, 356 U.S. 604, 611-12 (Frankfurter, J., dissenting).

In applying the Full Faith and Credit doctrine, a judgment rendered by a sister state is treated differently than a statute enacted by a sister state. While a state has some leeway regarding whether to follow a statute enacted by a sister state, "[t]he obligation is 'exacting' as to judgments." *In re Laura F.,* 83 Cal. App. 4th 583, 592, 99 Cal. Rptr. 2d 859 (2000), *quoting Baker v. General Motors Corp.*, 522 U.S. 222, 233 (1998). "A judgment entered in one state must be respected in another provided that the first state had jurisdiction over the parties and the subject matter." *In re Laura F.,* 83 Cal. App. 4th at 592-93. As a widely respected treatise explains,

> While a state, for sound reasons of policy may refuse to substitute the conflicting *statute* of another state, *ordinarily it must, regardless of policy objections,* recognize the *judgment* of another state court as res judicata. This is so even though the action or proceeding that resulted in the judgment could not have been brought under the law or policy of the forum, or a statute on which the judgment was based could have been refused recognition on policy grounds.

7 B. Witkin, Summary of California Law *Constitutional Law* § 35, p. 118 (10th ed. 2005 & 2010 Supp.) (emphasis added); see also *Magnolia Petroleum v. Hunt*, 320 U.S. 430 (1943). "California must, regardless of policy objections, recognize the judgment of another state as res judicata, and this is so even though the action or proceeding which resulted in the judgment could not have been brought under the law or policy of California." *World Wide Imports, Inc. v. Bartel,* 145 Cal. App. 3d 1006, 1011, 193 Cal. Rptr. 830 (1983). Further, "sister state judgments are entitled to full faith and credit even as to matters of law or fact erroneously decided." *Tyus v. Tyus,* 160 Cal. App. 3d 789, 792, 206 Cal. Rptr. 817 (1984).

Exceptions to the Federal Full Faith and Credit Doctrine

Although the full faith and credit doctrine is "exacting" as to judgments, there are some exceptions. As this Commission has noted: "Common defenses to enforcement of a sister state judgment include the following: the judgment is not final and unconditional (where finality means that no further action by the court rendering the judgment is necessary to resolve the matter litigated); the judgment was obtained by extrinsic fraud; the judgment was rendered in excess of jurisdiction; the judgment is not enforceable in the state of rendition; the plaintiff is guilty of misconduct; the judgment has already been paid; suit on the judgment is barred by the statute of limitations in the state where enforcement is sought." Code Civ. Proc. § 1710.40 Comment; *see also Liquidator of Integrity Ins. Co.*, 54 Cal. App. 4th 971, 976, 63 Cal. Rptr. 2d 240 (1997) (quoting foregoing Comment).

As yet, there is no federal exception specifically for a judgment regarding care of an incapacitated adult. But several exceptions to the full faith and credit doctrine may apply to a case involving such an out-of-state judgment. A number of them are discussed below.

A Judgment Is Not Entitled to Full Faith and Credit If the Court Lacked Jurisdiction

A judgment "is entitled to full faith and credit only if rendered by a state court having jurisdiction of the parties and the subject matter." Witkin, *supra,*

Constitutional Law § 37, p. 120. If the court is shown to have lacked either subject matter or personal jurisdiction, "the judgment will be denied enforcement." *Id.*; *see also Medical Legal Consulting Services, Inc. v. Covarrubias,* 234 Cal. App. 3d 80, 87, 285 Cal. Rptr. 559 (1991). As the California Supreme Court has explained:

> A judgment of a sister state is binding upon the courts of this state *if valid* by virtue of the full faith and credit clause of the Constitution of the United States (see article IV); but the jurisdiction of the court of the sister state in which the judgment is rendered, may be questioned collaterally in another state notwithstanding the full faith and credit clause ….

Hammell v. Britton, 19 Cal. 2d 72, 81, 199 P.2d 333 (1941) (emphasis in original).

This principle is "subject to the qualification that the determination of jurisdiction in the first action may be res judicata and not subject to challenge." Witkin, *supra, Constitutional Law* § 37, p. 120. "A judgment is entitled to full faith and credit, even as to jurisdictional questions, when these questions have been litigated and decided in the first court." *Id.* at p. 121; see *Durfee v. Duke,* 375 U.S. 106, 111 (1963).

A Judgment is Only Entitled to Same Degree of Finality as in State that Rendered It

Another important exception to the full faith and credit doctrine focuses on the degree of finality that a judgment has in the state that rendered it. If the judgment is subject to modification in that state, it is likewise subject to modification in a sister state. The United States Supreme Court has repeatedly recognized this principle in cases involving custody of minors. For example, in *Halvey,* the Court noted that a Florida custody decree "was not irrevocable and unchangeable; the Florida court had the power to modify it at all times." 330 U.S. 610, 612 (1947). Consequently, the Court concluded that "custody decrees of Florida courts are ordinarily not *res judicata* either in Florida or elsewhere, except as to the facts before the court at the time of judgment." *Id.* at 613. "So far as the Full Faith and Credit Clause is concerned, what Florida could do in modifying the decree, New York may do." *Id.* at 614. In other words, "a judgment has no constitutional claim to a more conclusive or final effect in the State of the forum than it has in the State where rendered." *Id*. "[T]he State of the forum has at least as much leeway to disregard the judgment, to qualify it, or to depart from it as does the State where it was rendered." *Id.* at 615; *see also Ford v. Ford,* 371 U.S. 187 (1962); *Kovacs v. Brewer,* 356 U.S. 604, 607 (1958).

A Judgment of Another State is Not Entitled to More Deference Than Earlier Judgment of This State

If an issue was litigated and decided in a state, and then relitigated in a sister state, the first state is not required to accept the judgment entered by the sister state:

> The full faith and credit clause does not compel this court to set aside a judgment rendered in this state in an action involving the same issue as that subsequently adjudicated by a court of a sister state. So to apply that clause would result in giving greater faith and credit to the judgments of the courts of other states than to those of the courts of this state. That provision of the Constitution cannot reasonably be interpreted to authorize a person to litigate a question *ad infinitum*.

Hammell, 19 Cal. 2d at 84.

In Rare Situations, a State Need Not Accord Full Faith and Credit to a Sister State Judgment that Contravenes Its Own Public Policy

Finally, "[e]xcept in the case of a money judgment in a civil suit, there are limitations on the extent to which a state may be required by the Full Faith and Credit Clause to enforce the judgment of another state in contravention of its own statutes or policy." Witkin, *supra*, *Constitutional Law* § 36, pp. 119-20. Application of this public policy exception is rare; a state's policy interests are generally overridden by the Full Faith and Credit requirement. *See, e.g.*, *Covarrubias*, 234 Cal. App. 3d at 92 ("We have been unable to find any authority which suggests that a statute limiting tort recovery in medical malpractice cases is an interest of such importance to constitutionally permit one state to refuse to enforce a judgment of another state's court."); *World Wide Imports*, 145 Cal. App. 3d at 1013 ("We cannot say because the State of Washington's policy on withdrawal of a waiver of jury trial is not as liberal as California's that this amounts to a violation of a fundamental public policy that would excuse compliance with the United States Constitution."). But the exception is not merely theoretical. *See, e.g., Smith v. Superior Court*, 41 Cal. App. 4th 1014, 1025, 49 Cal. Rptr. 2d 20 (1996) (application of public policy exception is necessary because petitioners were not parties to the Michigan proceedings and the Michigan decree "blatantly and irreconcilably conflicts with our fundamental public policy against the suppression of evidence.").

Full Faith and Credit in the Child Custody Context

Before examining the case law on according full faith and credit to a judgment regarding care of an incapacitated adult, it may be helpful to recount the history of the full faith and credit doctrine in the child custody context. UAGPPJA was modeled on the Uniform Child Custody Jurisdiction and Enforcement Act ("UCCJEA"), which was preceded by the Uniform Child Custody Jurisdiction Act ("UCCJA"). Both UCCJA and UCCJEA address full faith and credit issues relating to child custody determinations of sister states. There is also a federal act on the same subject, the Parental Kidnapping Prevention Act of 1980 ("PKPA").

In a 1988 decision, the United States Supreme Court explained the history of the PKPA and UCCJA:

> At the time Congress passed the PKPA, custody orders held a peculiar status under the full faith and credit doctrine, which requires each State to give effect to the judicial proceedings of other States…. *The anomaly traces to the fact that custody orders characteristically are subject to modification as required by the best interests of the child.* As a consequence, some courts doubted whether custody orders were sufficiently "final" to trigger full faith and credit requirements, and this Court had declined expressly to settle the question. See [*Ford*, 371 U.S. at 192]. Even if custody orders were subject to full faith and credit requirements, the Full Faith and Credit Clause obliges States only to accord the same force to judgments as would be accorded by the courts of the State in which the judgment was entered. *Because courts entering custody orders generally retain the power to modify them, courts in other States were no less entitled to change the terms of custody according to their own view of the child's best interest.* See [*Halvey*, 330 U.S. at 614-15]. For these reasons, a parent who lost a custody battle in one State had an incentive to kidnap the child and move to another State to relitigate the issue. This circumstance contributed to widespread jurisdictional deadlocks …, and more importantly, to a national epidemic of parental kidnapping.…
>
> A number of States joined in an effort to avoid these jurisdictional conflicts by adopting the [UCCJA]. The UCCJA prescribed uniform standards for deciding which State could make a custody determination and obligated enacting States to enforce the determination made by the State with proper jurisdiction. *The project foundered, however, because a number of States refused to enact the UCCJA while others enacted it with modifications.* In the absence of uniform national standards for allocating and enforcing custody determinations, noncustodial parents still had reason to snatch their children and petition the courts of any number of haven States for sole custody.

Thompson v. Thompson, 484 U.S. 174, 180-81 (1988) (emphasis added) (citations to lower court opinions omitted).

In light of this history, the Court concluded that in enacting the PKPA, "the principal problem Congress was seeking to remedy was the inapplicability of full faith and credit requirements to custody determinations." *Id.* at 181. "[T]he purpose of the PKPA was to provide for nationwide enforcement of custody orders made in accordance with the terms of the UCCJA." *Id.* "[T]he PKPA is a mandate directed to state courts to respect the custody decrees of sister States." *Id.* at 183.

However, enactment of the PKPA still was not enough to fully cure the problems. The PKPA requirements were similar to those of the UCCJA, but there were some significant differences. The relationship between these two statutes became "technical enough to delight a medieval property lawyer." *Prefatory Note to UCCJEA,* p. 2, *quoting* Homer H. Clark, *Domestic Relations* § 12.5 at 494 (2d ed. 1988). To harmonize this area of law, the Uniform Law Commission developed the UCCJEA, which has since been adopted in every state.

Thus, the history of full faith and credit for child custody determinations can be summarized as follows:

(1) Oftentimes, state courts did not give full faith and credit to a sister state's child custody determination. Typically, this was justified on the ground that the custody determination was modifiable in the sister state and thus was also modifiable elsewhere.

(2) The above situation led to widespread forum shopping.

(3) To address that problem, the Uniform Law Commission developed the UCCJA, which was widely adopted.

(4) The UCCJA proved insufficient, because some states refused to adopt it, others adopted it with modifications, and states differed in how they interpreted it.

(5) Congress determined that national legislation was necessary and adopted the PKPA.

(6) The relationship between the PKPA and UCCJA was complicated and created problems.

(7) To harmonize the PKPA and UCCJA, the Uniform Law Commission developed the UCCJEA.

(8) The UCCJEA has been adopted in every state. To the best of the staff's knowledge, it is functioning smoothly.

What does this history tell us about giving full faith and credit to a sister state's judgment regarding care of an incapacitated adult? A couple of key points come to mind.

From the early history — the Court's decisions holding that a state has as much leeway to disregard or modify a child custody judgment as the sister state that rendered the judgment (*Halvey; Kovacs; Ford*) — it seems likely that the Court would reach a similar result with regard to a judgment appointing someone to care for an incapacitated adult. It has been said that child custody determinations and court orders regarding care of incapacitated adults are similar in nature, and rules applying to one also apply to the other." *In re Guardianship and Conservatorship of Frederick J. Miller,* 5 Kan. App. 2d 246, 253, 616 P.2d 287 (Kan. Ct. App. 1980), citing Paulsen & Best, Guardians and the Conflict of Laws, 45 Iowa L. Rev. 212, 223 (1960); Restatement (Second) of Conflict of Laws § 79, Comment d. That is perhaps an overstatement, because there are some significant differences between the two types of situations. *See, e.g., Crossing State Lines: Issues and Solutions in Interstate Guardianships,* 37 Stetson L. Rev. 87, 121-22 (2007); *In re Jimmie L.*, 181 Wis. 2d 370, 514 N.W.2d 424, 1993 Wisc. App. Lexis *1, *16 (1993). Like a child custody determination, however, a court order appointing someone to care for the person or property of an incapacitated adult is typically subject to modification to further the best interests of the incapacitated adult. Thus, although the United States Supreme Court has not yet resolved how the full faith and credit doctrine applies to a court order regarding care of an incapacitated adult, there are strong indications it would decide that the doctrine has limited application in this context.

From the later history — the development and enactment of the UCCJA, the passage of the PKPA, and finally the development and enactment of the UCCJEA — comes a different kind of guidance. By itself, UCCJA was insufficient to address the problems relating to interstate treatment of child custody judgments, because some states refused to adopt the UCCJA, others adopted it with modifications, and states differed in how they interpreted it. Federal legislation (the PKPA), followed by a uniform act harmonizing the law (the UCCJEA), was necessary to fully solve the problems. The same could prove true with regard to UAGPPJA, depending on whether and how it is implemented across the country.

Full Faith and Credit For a Court Order Appointing Someone to Care for the Person or Property of an Incapacitated Adult

Having reviewed the law regarding child custody determinations, we turn to the case law and other authorities specifically addressing application of the Full Faith and Credit Clause to a court order appointing someone to care for the person or property of an incapacitated adult. We begin by looking at what other jurisdictions have done, and then discuss the California situation.

Jurisdictions Other Than California: Cases That Give Deference to an Out-of-State Decision

In some cases involving a sister state's court order regarding care of an incapacitated adult, the forum state has deferred to the sister state's determination. In other such cases, the forum state has not deferred to the sister state's determination. Most of the published cases seem to fall into the former category.

For example, in *Guardianship of Margaret Enos,* 670 N.E.2d 967, 41 Mass. App. Ct. 360 (1996), a Florida court had determined that Margaret Enos was incapacitated, and had appointed Adult Comprehensive Protection Services, Inc. (ACPS), a non-profit corporation, to care for her. Acting without obtaining permission from ACPS or any court, Ms. Enos' daughter moved Ms. Enos from Florida to Massachusetts. The daughter then petitioned a Massachusetts court to appoint her as Ms. Enos' caretaker, in place of ACPS. But the Massachusetts court denied her request, and that ruling was upheld on appeal. The appeals court explained:

> Although [the daughter] correctly notes that guardianship decisions have occasionally been denied full faith and credit in some jurisdictions, historically Massachusetts courts have declined to give another jurisdiction's valid guardianship order full faith and credit only when the best interest of the ward required otherwise. But whether honoring the Florida decisions here is mandatory or optional is academic when no reason not to accord them full faith and credit has been shown. It is undisputed that Florida has both personal and subject matter jurisdiction of the case. Moreover, Florida is plainly the more convenient forum for resolving the dispute.

Id. at 968-69 (citations omitted). The Massachusetts court thus determined that any concerns the daughter had about her mother's care "must be presented in

Florida for reasons of full faith and credit, interstate comity, and the superior convenience of that forum." *Id*. at 969.

Similarly, *In re Pulley,* 197 S.W.3d 162 (Mo. Ct. App. 2006), involved a dispute between divorced parents over care of their adult disabled son. A Michigan court appointed the mother as guardian. She took care of her son for a number of years, but he then went to live with his father in Missouri, with the mother's assent. A few years later, the mother wanted to move her son to Nevada. The father wanted to keep his son, so he brought suit in Missouri, requesting that the Missouri court (1) register the Michigan guardianship order, and (2) appoint him as guardian in place of the mother. The Michigan court was notified of the requested transfer, held a hearing on it, and decided to transfer the case to Missouri as requested. Thereafter, the Missouri court appointed the father as guardian, and the mother appealed, arguing in part that the Michigan court's decision to transfer the case to Missouri was improper. The Missouri court rejected this "collateral attack on a foreign order." *Id.* at 165-66. It explained:

> Missouri courts are obligated to give "full faith and credit" to a foreign state's judicial proceedings unless the order or judgment was obtained by fraud or is void for lack of jurisdiction. Mother makes no allegation of fraud, nor does she assert that the Michigan court lacked personal or subject matter jurisdiction to rule in the guardianship case. She contends only that the Michigan court erred in applying MCR 2.227 as the legal grounds for transferring the case to Missouri.
>
> With respect to a foreign order or judgment, we must presume the state court had jurisdiction and that it rendered a valid judgment in accordance with its laws and the issues in the case. The concept of giving "full faith and credit" to a foreign judgment generally precludes any inquiry into the merits of the underlying cause of action, and precludes questioning the logic or consistency of the decision, or the validity of the legal principles upon which it is based.
>
> The proper place for Mother to have challenged the decision of the Michigan court was on appeal in Michigan, not in Missouri.

Id. (citations omitted).

Likewise, in two other Missouri cases and a Florida case, the court of appeal concluded that an out-of-state ruling regarding care of an incapacitated adult should be given full faith and credit. In each of these cases, however, the probate court had reached a different result, which had to be overturned. *See In re Myrtle Dunn,* 181 S.W.3d 601, 606 (Mo. Ct. App. 2006) (deferring to Illinois decision); *In re Steven Prye,* 169 S.W.3d 116 (Mo. Ct. App. 2005) (deferring to Illinois decision);

In re O'Keefe, 833 So.2d 162, 165-66 (Fla. Ct. App. 2002) (deferring to Montana decision). Thus, although full faith and credit was ultimately given in each of these cases, obtaining that result was not easy. Two of the cases (*Myrtle Dunn* and *Prye*) involved involuntary mental health treatment of the incapacitated person, which might explain the probate court's reluctance to accord full faith and credit.

Another case involved a dispute over care of an elderly woman suffering from Alzheimer's disease. Her son moved the woman to Tennessee against the wishes of his stepsister, who had been appointed guardian in Florida. The son then petitioned a Tennessee court to appoint him to care for his mother. The Tennessee court denied the petition on the ground that his mother was a Florida resident, and thus Tennessee did not have jurisdiction over her. *In re Conservatorship of Lois G. Clayton,* 914 S.W.2d 84, 89-91 (Tenn. Ct. App. 1995). As an alternate basis for decision, the court relied not on full faith and credit, but on the related principle of comity:

> In addition, the probate court should have deferred to the on-going Florida guardianship proceedings on the basis of judicial comity. Comity is a discretionary doctrine by which the courts of one state may, out of deference and respect, give effect to the decisions of the courts of another state even when they are not required to do so by the Full Faith and Credit Clause of the United States Constitution. It may be granted or withheld depending on the particular facts, laws, and policies present in an individual case. Our courts need not extend comity to the decisions of the courts of other states if they are contrary to our law or public policy.
>
> We have carefully reviewed Florida's statutes dealing with guardians and conservators and find no conflicts with out statutes protecting the person and property of incompetent persons. We also find no jurisdictional defect in the proceedings in [Florida].… Since the [Florida court] first acquired and still retains jurisdiction over Ms. Clayton's property, we find that the probate court properly declined to act on Mr. Clayton's petition for the appointment of a conservator in Tennessee.

Id. at 92. The Tennessee court thus deferred to the Florida court's decision, but did not squarely invoke the constitutional doctrine of full faith and credit. For a similar result, see *In re Guardianship of Elizabeth Ann Replogle,* 841 N.E.2d 330, 334 (Ohio Ct. App. 2005), in which the Ohio court "d[id] not give preclusive effect to the Indiana judgment, but merely defer[red] to the Indiana court as being a better forum in which to determine [the incapacitated person's] best interest."

Jurisdictions Other Than California: Cases That Do Not Give Deference to an Out-of-State Decision

A different result was reached by a Kansas trial judge in *In re Guardianship and Conservatorship of Frederick J. Miller,* 5 Kan. App. 2d 246, 616 P.2d 287 (Kan. Ct. App. 1980). The trial judge appointed a woman to care for Mr. Miller, even though his son had already been appointed to care for him in Nebraska. The Kansas Court of Appeals upheld this result, but suggested that it might have been better if the trial judge had deferred to the Nebraska court as a matter of comity:

> Since the guardianship order of the Nebraska court was subject to modification in Nebraska, and Nebraska contemplated modification under certain circumstances in other states, the Kansas court could also exercise jurisdiction and modify the order. The fact that a broad power exists to appoint a guardian does not mean that one should be appointed on every request. As a matter of comity, it appears that absent a valid reason to do so a second guardian should not be appointed, even though Kansas has that jurisdiction. We express disapproval of the lack of contact with the Nebraska court by counsel and the trial court, and believe that the better course of conduct would have been for the trial judge to refuse to exercise jurisdiction until the Nebraska court had an opportunity to correct the alleged problems. The test, however, is not what we perceive to be the better method, but whether the trial court abused its discretion. We cannot say that it did.

Id. at 254 (citation omitted).

Conflicting court decisions regarding who should care for an incapacitated adult also occurred in a matter that eventually wound up in federal court. As the federal court explained, Oklahoma had appointed one person to provide care, Texas had appointed someone else, and neither state had accorded full faith and credit to the other state's decision:

> The Oklahoma decision concluded that the judgment of the Texas court appointing Jones as guardian was not entitled to full faith and credit. In proceedings subsequent to the Texas Court of Appeals decision, the Texas district court concluded the contrary Oklahoma decision was not subject to full faith and credit there.

In re Guardianship of Loyce Juanita Parker, 2008 U.S. Dist. Lexis 102195, *2. The federal court decided that it lacked authority to resolve this dilemma:

> It is regrettable that this overall dispute has developed as it has, with competing and inconsistent determinations from the courts of two different states. That circumstance appears to have resulted

> from the insistence of both parties on pursuing their legal positions in their own preferred jurisdiction rather than fully litigating all issues in a single forum. However, regardless of the cause of this legal gridlock, it is clear that this court lacks authority to resolve it insofar as the circumstances hinge on the guardianship determinations.

Id. at *10.

Similarly, in *Mack v. Mack,* 329 Md. 188, 197, 618 A.2d 744 (Md. Ct. App. 1993), a Maryland court held that a Florida court order appointing a woman as guardian of her husband was "not entitled to full faith and credit." The Maryland court explained:

> The mandate of Art. IV, § 1 of the United States Constitution, requiring courts in each state to accord full faith and credit to judgments of courts in other states, is not absolute. A court, for example, need not give full faith and credit to a judgment that was rendered by a court lacking jurisdiction. It is proper for a forum court to examine the jurisdiction of the deciding court to determine whether the foreign judgment must be accorded full faith and credit.
>
> Jurisdiction to appoint a guardian over the person of an incompetent or disabled individual lies with the state where that individual is domiciled or present.
>
> ….
>
> Inasmuch as the state of Ronald's domicile has always been Maryland, … Florida did not have jurisdiction.

Id. at 198. Under this analysis, the Maryland trial court was free to make its own determination of whom to appoint to care for the incapacitated man, who had been in a persistent vegetative state for ten years. At stake was whether to withdraw life support, as desired by his wife, or keep the man alive, as desired by his father. The Maryland trial court had appointed the father as guardian and ruled that the standard for withdrawing life support had not been met. The latter ruling was upheld on appeal; the guardianship appointment was reversed for reevaluation on grounds unrelated to full faith and credit issues.

In re Kassler, 173, Misc. 856, 19 N.Y.S.2d 266 (1940), is a further example of a court refusing to accord full faith and credit to a sister state's decision regarding care of an incapacitated adult. In that case, an Iowa court determined that a man was incompetent and appointed his wife to care for him. She later moved to New York, taking her husband with her. She requested that a New York court recognize her status as his caretaker, without readjudicating whether he was

incompetent. The New York court refused to do so, asserting that there is "no statutory warrant for the acceptance of a foreign adjudication of lunacy as controlling upon the question of the capacity or incapacity of a resident of this state." *Id.* at 271-72. The court further explained that the "comity which we extend to the decrees of sister States does not justify an assumption that we may ignore our own statutory requirements in ascertaining the necessity for the appointment of a domiciliary committee." *Id.* at 272. In other words, the New York court felt it incumbent to conduct a new inquiry regarding the man's capacity, in accordance with New York procedures, rather than accepting the prior decision made in Iowa.

Particularly Noteworthy Out-of-State Case

As explained above, cases from other jurisdictions are not consistent about according full faith and credit to a sister state's court order appointing someone to care for an incapacitated adult. One out-of-state case, *In re Guardianship of Jane E.P.*, 2005 WI 106, 283 Wis. 2d 258, 700 N.W.2d 863 (Wis. 2005), is particularly noteworthy for the depth of its analysis of this matter.

In that case, an incapacitated woman lived in a nursing home in Illinois, and her sister was her guardian. The incapacitated woman had many relatives in Wisconsin, just across the Illinois border. They wanted the woman to be able to move to a nursing home in Wisconsin, with her sister remaining as her guardian. A Wisconsin governmental entity (the Grant County Department of Social Services) filed a petition to facilitate this outcome. The trial court dismissed the petition because the woman was not a Wisconsin resident. That result was reversed on appeal, and then the Wisconsin Supreme Court granted review.

In considering the matter, the Court noted that "American society has become increasingly mobile," Americans are "living longer than ever due to advancements in health, science, and medicine," and along with this "comes an increase in Alzheimer's, dementia, and other incapacitating diseases that interfere with the ability to live independently." *Id.* at 264-65. Consequently, "the number of interstate guardianships is likely to increase in Wisconsin as well as nationwide." *Id.* at 265.

The Court cautioned that "[w]ith the increase of interstate guardianships comes a host of difficult questions." *Id.* at 266. The Court then elaborated on this point, saying:

> The questions surrounding the interstate transfer of guardianships are of vital importance to Wisconsin families and their loved ones. In many simple cases the conclusion is obvious: it is in the best interest of the ward to be near those who will love, care for, and comfort the ward. But not all cases are so easily resolved. Quite the contrary.
>
> Some jurisdictional questions involving the interstate transfer of guardianship pose complex legal and procedural issues laden with serious public policy questions. What happens when the relatives are in different states and are fighting over which state most appropriately should exercise jurisdiction? What happens when the motives are not based on what is in the best interest of the ward, but rather on the fortune of the ward who has property in several states? Should wards be transferred to states for the purpose of being subject to more favorable "right to die" laws or assisted suicide legislation?
>
> As case law from other jurisdictions demonstrates, courts have struggled mightily with problems associated with interstate guardianships.

Id.

Analyzing the case before it, the Wisconsin Supreme Court drew attention to the Illinois court, "which is charged with the responsibility of ensuring Jane's safety and well-being and has already determined that placement at [the Illinois nursing home] is in her best interest." *Id*. at 270. The Court observed that "[i]f there is to be any comity between Illinois and Wisconsin, the analysis should begin there." *Id.* The Court explained:

> Comity is based on respect for the proceedings of another system of government. The doctrine is neither a matter of absolute obligation nor of mere courtesy and good will, but is recognition which one state allows within its territory to legislative, executive, or judicial acts of another, having due regard to duty and convenience and to rights of its own citizens.
>
> *Given today's aging and mobile society, we believe that interstate cooperation between courts is vital.* Such cooperation promotes confidence in the judicial system, and enhances the efficient use of judicial resources.

Id. at 271 (emphasis added).

Having emphasized the importance of interstate cooperation, the Court noted that there was no legal framework in place to promote such cooperation: "The problem in this case and others like it is that current laws are generally insufficient to assist courts and litigants in resolving multi-jurisdictional issues

stemming from interstate guardianships." *Id.* The Court "strongly encourage[d] the legislature to address this issue." *Id.* at 272.

In the absence of legislative guidance, the Court went on to "set forth standards for Wisconsin courts to follow when confronting cases associated with the interstate transfer of guardianships." *Id.* These standards are quite detailed, and are based on a study conducted by the National College of Probate Judges and the National Center for State Courts. *See id.* at 273-81. It is not necessary to describe them here, but we may do so in a future memorandum. Whether it was proper for the Wisconsin Supreme Court to adopt such detailed standards is also beyond the scope of this discussion. Suffice it to say, the Court was convinced that its standards "will help Wisconsin courts facilitate the geographic mobility of those individuals that guardianship orders were designed to protect." *Id.* at 281. The Court then described the procedural steps to be taken on remand, and concluded:

> Assuming that there are no objections and that [the Illinois court] approves of the transfer, [the Wisconsin court] should allow the guardianship to be "imported," *giving full faith and credit to the terms and powers of the foreign guardianship order*. Administrative changes of the guardianship may be necessary to bring the guardianship into compliance with the requirements of Wisconsin law. However, if these steps are completed, [the Wisconsin court] will be able to place Jane at [the Wisconsin nursing home] *without hearing a new petition for protective placement.* This will avoid the residency requirement of Wis. Stat. § 55.06(3)(c).

Id. at 282 (emphasis added).

The Wisconsin Supreme Court thus went to great lengths to (1) provide guidance regarding "portability" of court decisions appointing someone to care for an incapacitated adult, and (2) facilitate such "portability," consistent with Wisconsin guardianship principles. Its decision underscores the importance of such issues, and the need for legislation addressing them, not only in Wisconsin but across the country.

California Law

In California, there is no court decision comparable to *In re Guardianship of Jane E.P.* Quite the contrary, there is a statute that appears to impede portability of a sister state's court order appointing someone to care for an incapacitated adult.

Code of Civil Procedure Section 1913 provides:

> 1913. (a) *Subject to subdivision (b)*, the effect of a judicial record of a sister state is the same in this state as in the state where it was made, except that it can only be enforced in this state by an action or special proceeding.
>
> (b) *The authority of a* guardian, *conservator*, or committee, or of a personal representative, *does not extend beyond the jurisdiction of the government under which that person was invested with authority,* except to the extent expressly authorized by statute.

(Emphasis added.) This statute is viewed as "the California reflection of the full faith and credit clause of the United States Constitution by which 'full faith and credit [must] be given in each state to the public acts, records, and judicial proceedings of every other state.'" *Ehrenclou v. MacDonald,* 117 Cal. App. 4th 364, 373 n. 6, 12 Cal. Rptr. 3d 411 (2004), *quoting* U.S. Const. art. IV, § 1. While subdivision (a) calls for recognition of sister state judgments, however, subdivision (b) does not. Instead, subdivision (b) has been interpreted to mean that if a person is appointed by another state to act on an incompetent's behalf, that person only has such authority within the appointing jurisdiction and cannot maintain a lawsuit on the incompetent's behalf in California. *See Mayer v. Willig,* 196 Cal. App. 2d 379, 16 Cal. Rptr. 476 (1961) (guardian's authority to act for incompetent person did not extend beyond jurisdiction of New York court that appointed guardian); *see also Holiway v. Woods,* 143 Cal. App. 3d 1006, 1010-11, 192 Cal. Rptr. 445 (1983) ("appellant's Illinois conservatorship over her father gave her no special authority in this state with regard to either parent").

Other California cases reach similar results. For example, in *In re Mosier*, 246 Cal. App. 2d 164, 54 Cal. Rptr. 447 (1966), the court declined to give full faith and credit to a Texas judgment determining that Mr. Mosier was incompetent and appointing his daughter to care for him. The Court explained:

> Appellant Lee Richards has raised the constitutional question here by asserting that while the courts of California are required under the federal Constitution to give full faith and credit to the judicial proceedings of every other state (art. IV, § 1), they are not prohibited from inquiring into the grounds of jurisdiction of the sister state. The Texas court apparently found as a jurisdictional fact that Mr. Mosier was a resident of Texas, but it could not have found, save for personal service of the citation outside Texas, the further jurisdictional fact which would be immune from collateral attack, namely, that Mr. Mosier had participated in such proceedings.… Under the circumstances, the trial court properly drew the conclusion of law that the Texas judgment "is not entitled

> to full faith and credit under The Constitution of the United States of America."

Id. at 175. Similarly, a recent unpublished decision states:

> [A] California court is *not* required to issue letters of conservatorship over the person (or the estate) of a California resident *simply because a sister state has granted similar authority to the petitioner when the ward or conservatee was a resident in the state*. … [T]he proper procedure is for the person who would be conservator to file a petition in this state, under the provisions of Probate Code section 1800, et seq. That enables the probate court of this state to determine the need of the person for a conservator, and to appoint a qualified person to the position. It also provides a continuing basis for assurance that the conservator, acting under judicial supervision, will faithfully discharge the responsibilities of that fiduciary relationship.

In re McGowan, 2002 Cal. App. Unpub. LEXIS 9993 (2002) (emphasis in original).

Thus, California courts have been disinclined to accept sister state determinations regarding care for an incapacitated adult. There does not appear to be any California Supreme Court or United States Supreme Court decision squarely addressing how the Full Faith and Credit Clause of the United States Constitution applies to such a determination. As previously discussed, however, there are several United States Supreme Court decisions regarding full faith and credit in the child custody context, which is comparable in many respects. Based on those decisions, it seems likely the Court would conclude that the Full Faith and Credit Clause generally does not require a state to recognize and abide by a sister state's determination regarding care for an incapacitated adult. Whether that result is sound policy, or should be avoided through the enactment of legislation such as UAGPPJA, is a question at the heart of this study.

Respectfully submitted,

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Reported Cases on Multi-state Guardianship Jurisdiction Issues Supporting Need for the *Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act* (UAGPPJA), Sorted by Issue

American Bar Association Commission on Law and Aging
November 2010

Cases identified through National Guardianship Association *Annual Legal Reviews*

State where case was heard is shown in italics

This chart originally was prepared in 2009 for the ABA Commission on Law and Aging *Joint Campaign for Uniform Guardianship Jurisdiction*, with funding from the ABA Section of Real Property, Trust and Estate Law; the American College of Trust and Estate Counsel Foundation; and the Uniform Law Foundation. The chart was updated in November 2010.

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
Jurisdiction	*Mack v. Mack*, 618 A. 2d 744 (1993)	*MD*	FL	**Case Summary:** Ronald Mack was in a persistent vegetative state as a result of an auto accident. His wife, Deanna, had been appointed his guardian in Maryland, where Ronald was hospitalized and had always resided prior to the accident. Deanna moved to Florida several years later. Ronald remained in Maryland where his father and a sister resided. Deanna was appointed Ronald's guardian by a Florida court and the Maryland guardianship was terminated. Thereafter, Deanna learned that under Florida law she might be able to terminate Ronald's nutrition and hydration, which she believed would have been his wish, if he was moved to Florida. Ronald's father learned of	Under the Act, Maryland would be the home state. Florida could have declined jurisdiction as there was an existing guardianship in Maryland and Maryland was a more

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
				Deanna's plan. He petitioned to become Ronald's guardian in Maryland. Deanna cross-petitioned, seeking either confirmation of her appointment as Ronald's guardian in Florida or re-appointment as Ronald's guardian in Maryland. The lower court concluded that Deanna's appointment as guardian in Florida was not entitled to full faith and credit in Maryland because Ronald's contacts with the state of Florida were insufficient to support the Florida court's jurisdiction. Deanna appealed. The appellate court affirmed, stating that: (1) Ronald had never lived in Florida or expressed any intent to live in Florida; and (2) the fact that his wife and children had moved to Florida and that Deanna received his veteran's benefit check in Florida were not sufficient to support Florida's jurisdiction over Ronald's person. **Human Face:** At age 23, Ronald Mack was involved in an auto accident in which he suffered massive brain injuries. He never regained consciousness after the accident. The case involves an application to withhold nutrition and hydration to a previously competent, adult, hospital patient who had been in a persistent vegetative state for 10 years, but who was not terminally ill. The case illustrates how a party can seek to use guardianship jurisdiction as a tool to achieve other ends.	appropriate forum. This could have avoided the litigation.
Jurisdiction	*In Re Guardianship of Ralph DeCaigny* (Minn. Ct. App. 1994)	*MN*	NM	**Case Summary:** Incapacitated person Ralph DeCaigny originally lived in Minnesota, and a Minnesota bank was appointed as guardian of estate by Minnesota court. DeCaigny's sister and her husband moved him to New Mexico where he remained 12 years. New Mexico court appointed them as guardians. Sister died but her husband, Brown, continued to serve, with DeCaigny's brother as substitute guardian. Minnesota bank petitioned Minnesota court for removal of Brown as guardian of person on basis of	Under the Act, the home state would be New Mexico, with jurisdiction for appointment and removal of guardian of person. The Act

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
				mismanagement of health care costs and failure to report, as well as inability to care for DeCaigny. Minnesota court removed Brown. Minnesota judge contacted New Mexico judge, who agreed to removal. Guardian Brown appealed. Appellate court stated that a Minnesota court lacked jurisdiction to remove a New Mexico guardian, and reversed and remanded. Appellate court encouraged the two lower courts to work on a plan whereby the incapacitated person and guardian of person and of estate would all be in same state. **Human Face:** Ralph DeCaigny was a 77-year-old individual with Alzheimer's disease for 14 years. His best interests were at stake, and the "split jurisdiction" between the guardian of the person and guardian of the estate in two different states made this difficult.	would facilitate judicial communication and hasten resolution.
Jurisdiction	*Matter of Rose Jacobs,* 717 A..2d 432 (N.J. Ch. Div. 1998)	FL	*NJ*	**Case Summary:** Rose Jacobs had daughter in New Jersey and son in Florida. She lived in Florida until her husband died in 1989, then intermittently in Florida and New York, and then in Florida for three years. In 1997 she was sent to New Jersey to stay with daughter, but had a return ticket and did not pack all her belongings. Daughter filed petition for guardianship in New Jersey, and son sought dismissal on grounds that respondent was domiciled in Florida. The court analyzed the concept of domicile and capacity to choose domicile, and determined that Rose Jacobs was domiciled in Florida, that court had no jurisdiction, and dismissed the action. (There was no competing Florida filing.) **Human Face:** Rose Jacobs was 85 years old. Her son and daughter fought over control of their mother, and played this out in court over the filing of a guardianship petition. Quick resolution of such cross-border family disputes	Under the Act, Florida would be home state. The New Jersey court readily could have identified Florida as the home state without a protracted analysis of domicile.

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
				is essential for the elder caught in the middle, and to avoid excessive litigation costs.	
Jurisdiction	*In the Matter of the Guardianship of Richardson*, 28 P.3d 621 (2000)	CO	*OK*	**Case Summary:** Veronica Richardson was 22 years old and partially incapacitated. Her parents were divorced, and both lived in Colorado. Richardson lived with her mother in Colorado until her paternal grandparents took her to Oklahoma without her mother's permission. The grandparents were awarded limited guardianship of Richardson by an Oklahoma court. The mother sought reconsideration and dismissal of the limited guardianship order. The Oklahoma court concluded that the Colorado order dissolving the parents' marriage was entitled to full faith and credit in Oklahoma, that the mother was the "natural guardian" over her unemancipated daughter, and that the lower court had therefore erred in appointing the grandparents as limited guardians. **Human Face**: Veronica Richardson was a young woman whose parents and lifelong contacts were in Colorado. She was caught in inter-generational conflict between her mother and her grandparents, who lived in different states. Speedy resolution was in her best interest.	Under the Act, Colorado would be the home state. The respondent had no connection with Oklahoma other than her grandparents. Consideration of the mother's objections could be hastened.
Jurisdiction	*In re Application of Vaneria,* 275 A.D.2d 221 (2000)	MA	*NY*	**Case Summary:** Emma Vaneria was 19 years old and had autism and mental retardation. She had resided in Massachusetts with or near her mother since her parents had separated. Vaneria's father, who lived in New York, was appointed as her guardian in New York. Her mother appealed that decision. The New York appellate court overturned the guardianship order. The court stated that New York had no jurisdiction over Vaneria because she did not live in the state, was not present in the state, and owned no property in the	Under the Act, designation of Massachusetts as the home state would facilitate quick resolution.

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
				state. **Human Face**: Emma Vaneria was a young woman caught in conflict between her parents, who lived in different states, and speedy resolution was in her best interest.	
Jurisdiction	*In Re Orshansky*, 804 A..2d 1077 (2002)	*DC*	NY	**Case Summary:** Mollie Orshansky was hospitalized after DC Adult Protective Services determined that she was self-neglecting. The hospital petitioned in DC to have a guardian appointed for Orshansky. Before the case was heard, Orshansky's niece, Jane Pollack, who was agent under health care advance directive, took Orshansky to New York. Pollack subsequently appealed the DC Probate Court decision to appoint a DC lawyer as Orshansky's guardian. One of the many issues raised in the appeal was whether DC had jurisdiction to hear the guardianship case given Orshansky's removal to New York. The appellate court ruled that DC had jurisdiction of the probate case because (1) there was no proof that Orshansky, who owned property in DC and New York, had ever indicated any intent to move to NY; (2) the health care power of attorney did not authorize Pollack to make decisions regarding Orshansky's domicile; (3) the purpose of DC's guardianship law would not be fulfilled if the court lost jurisdiction over a case each time an alleged incapacitated person left DC after a petition was filed; and (4) the purpose of the law also would not be met if a third party could terminate the court's jurisdiction simply by unilaterally removing the alleged incapacitated person from DC. **Human Face:** Mollie Orshansky was an 87-year-old retired federal employee who had gained fame as originator of the "poverty line." She had lived by	Under the Act, DC would be the home state, and Orshansky's presence in New York could not be the basis for jurisdiction. The Act would hasten resolution of the jurisdictional issue.

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
				herself in DC for 40 years. She has no family in DC, but had two sisters and nieces and nephews in New York City, and had planned to retire there in an apartment she had purchased. While the main thrust of the case was the recognition of her advance planning documents, the jurisdictional issue was an important subtext.	
Jurisdiction	*In the Matter of Marguerite Seyse* 803 A.. 2d 694 (N.J. Super.Ct. App. Div. 2002)	*NJ*	CT	**Case Summary:** Seyse's two daughters (Oehler and Olson) each petitioned in New Jersey to have their mother declared incapacitated and to be appointed as the mother's guardian. The New Jersey court declared the mother incapacitated and appointed the two daughters and Oehler's husband as co-guardians of the mother's person and property. The court also named a lawyer to act as an arbitrator of disputes among the co-guardians. Subsequently, Olson moved Seyse to Olson's home in Connecticut without obtaining consent from the court or the co-guardians. Each daughter then petitioned the New Jersey court to have the other daughter removed as co-guardian, and Olson filed a conservatorship (guardianship) proceeding in Connecticut. The New Jersey judge dissolved the co-guardianship and appointed Olson as guardian of Seyse's person and Oehler as guardian of Seyse's property. His rationale, which overcame concerns about Olson moving Seyse out of state without permission, was that Olson was caring for Seyse in her own home whereas Oehler would have placed Seyse in a facility, and that Seyse had expressed desire to remain with Olson in Connecticut. Seyse died while residing in Olson's home. A probate contest ensued, which raised the issue of whether a guardian can change the domicile of an incapacitated person. Appellate court concluded that a guardian may change	Under the Act, New Jersey would be the home state, and Olson could not gain Connecticut jurisdiction by moving the mother there. However, the mother eventually was placed in Connecticut by the New Jersey court, and a future transfer to Connecticut could be facilitated under the Act.

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
				the domicile, and concluded that the trial court judge had determined that domicile in Connecticut was in Seyse's best interest. **Human Face:** Marguerite Seyse was in assisted living in New Jersey, became disruptive at age 88, and was placed in a psychiatric hospital. Daughter Olson brought her mother to her home in Connecticut. Guardian ad litem interviewed Seyse and found she wanted to remain in Connecticut. The court's lengthy determination of domicile was in connection with dispute about probate jurisdiction, not guardianship jurisdiction.	
Jurisdiction	*Dakuras v. Edwards*, 312 F.3d 256 (7th Cir. 2002)	IL	OH	**Case Summary:** Dakuras lived with his girlfriend, Calder, in Illinois. She had a stroke and her relatives from Ohio moved her to Ohio, where they filed for and were appointed as guardians. They placed her in assisted living. Dakuras then sued them, claiming that the relatives had taken and refused to return valuable property of his and would not let him see Calder. He brought his case in federal court because of diversity jurisdiction. The district court ruled that the guardians had no authority to change Calder's domicile from Illinois to Ohio and dismissed the case for lack of diversity jurisdiction. Dakuras appealed. The appellate court concluded that guardians do have the authority to change the domicile of their wards. (The court also said the guardians had bad motives in moving Calder to Ohio and that they were estopped from claiming that they had not changed her domicile.) The appellate court ordered the district court to reinstate Dakuras' diversity suit. **Human Face:** Relatives moved Calder to Ohio, where they had her declared incapacitated, placed her in an assisted-living facility there, and prevented Dakuras from having any contact with her. Motives and merits of the move	Since this case involved Federal court diversity jurisdiction, the Act would not apply. There are insufficient facts to determine the effect of the Act if the case had been brought in state court.

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
				are unclear, but case turned on determination of domicile for purposes of federal diversity jurisdiction.	
Jurisdiction	*In Re Adline Uwazih*, 822 A.2d 1074 (D.C. Ct. App. 2003)	VA & NIGERIA	*DC*	**Case Summary:** Ms. Uwazih, a citizen of Nigeria who earlier had been admitted to the United States as a result of an immigration lottery, was struck by a car in Virginia (where she was residing at a relative's home) and hospitalized in DC. Her husband in Nigeria and her relative in Virginia refused to take her from the hospital because they could not provide adequate care for her. Ms. Uwazih petitioned the DC court to appoint a guardian and conservator for her. The hospital moved to dismiss the lawsuit. The DC court dismissed the suit on the ground that Ms. Uwazih neither was domiciled nor owned property in DC. Ms. Uwazih appealed. The appellate court concluded that the language of DC's guardianship law only required that Ms. Uwazih be present in DC to be eligible for a guardian; and that there was no basis for appointing a conservator as Ms. Uwazih did not own any property in DC. **Human Face:** Respondent was from Nigeria, temporarily living in Virginia, when she was struck by a car and was treated for a brain injury in a DC hospital for six months. She would require ongoing assistance, and her counsel sought a guardian and conservator to make decisions about discharge and placement. Hospital worked with the Nigerian embassy to arrange for her return. Key issue was domicile of Ms. Uwazih and whether her attorney had manufactured diversity to enable her negligence lawsuit in Virginia to be filed in the federal court.	Under the Act the home "state" may have been Nigeria, or Virginia, depending on the period in which she was present there. Presence in DC would not afford jurisdiction. However, there were no competing petitions outside of DC, and DC may be an appropriate forum if was in the respondent's best interests.
Jurisdiction	*In the Matter*	*MS*	FL;	**Case Summary:** After raising five children in Mississippi, Opal married Mr.	The respondent had

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
	of the Conservator-ship of Opal Williams Murphey, 910 So.2d 1234 (Miss. Ct. App. 2005)		AL	Murphey. They lived in Florida for many years. When Murphey had a heart attack, Opal's family moved her back to Mississippi, but after four months, she lived in assisted living in Alabama for over two years. Opal's son filed for and was appointed as conservator in Mississippi. When Murphey's health improved, he filed a motion to intervene in the conservatorship, alleging the court had no jurisdiction as Opal was not a resident of Mississippi. Opal returned to Florida to live with Murphey. Mississippi court removed son as conservator, finding Opal a resident of Florida. Son appealed. Court of appeals confirmed that Mississippi courts did not have jurisdiction. **Human Face:** Opal was an older woman with dementia, facing considerable stress due to her husband's heart attack, temporary separation from her husband, and her moves from Florida to Mississippi to Alabama and back to Florida. A large amount of time, money and angst was spent over her son's conservatorship filing in Mississippi and the determination of the question of jurisdiction, which could have been avoided through the procedures of the Uniform Act.	been in Alabama for two years, but had significant connections in Florida and Mississippi. Under the Act, the courts could communicate to establish the most appropriate forum, avoiding lengthy litigation.
Jurisdiction	*In Re: Guardianship of Elizabeth Ann Replogle,* 841 N.E.2d 330 (Ohio Ct. App. 2005)	IN	*OH*	**Case Summary:** Indiana court appointed Elizabeth's mother as guardian. Sister petitioned for removal, stating allegations of abuse. Elizabeth was moved to a nursing home in Ohio. Indiana court ordered the guardian to return her to Indiana. Another party (relationship unknown) filed for emergency guardianship in Ohio, and was appointed ex parte. Sister then filed a motion asking the Ohio court to give full faith and credit to the Indiana guardianship. Ohio court terminated Ohio guardianship and advised guardian to return Elizabeth to Indiana. Ohio trial court said Elizabeth's best interests could more appropriately be determined by the Indiana court. Appellate court	There were two competing guardianships in two states. Under the Act, Indiana as home state would have jurisdiction, and the Act would promote communication

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
				affirmed, noting that the trial court in Ohio properly deferred to the Indiana court as a better forum to determine best interests. **Human Face:** Elizabeth Replogle was a 41-year-old adult resident of IN with mental retardation. She was suddenly moved to an Ohio nursing home. The Ohio trial court noted there was "something fishy" about the Ohio petition for emergency guardianship; and appellate court said the record indicates the possibility that the guardian moved Elizabeth to Ohio "solely for the purpose of avoiding the termination of her status as guardian in Indiana."	between the courts as to the best interests of the respondent. The Ohio court could have declined jurisdiction because Indiana was a more appropriate forum and because of possible unjustifiable conduct.
Jurisdiction	*In Re Helen Riva Guardianship*, 2006 WL 3020316 (Ohio Ct. App. 2006)	PA	*OH*	**Case Summary:** Helen was an elderly Pennsylvania resident who fell in her home and had surgery for subdural hematoma. Son from Ohio had her placed in Ohio nursing home, petitioned for and was appointed guardian by Ohio court. Helen challenged the appointment, and the trial court found a continuing need for guardianship. A year later, Helen petitioned the court to terminate the guardianship and allow her to relocate back to Pennsylvania, arguing lack of in personam jurisdiction. Court denied her motion. Appellate court found she had waived her jurisdictional argument, and found the trial court did not abuse its discretion in denying the motion to relocate. **Human Face:** Helen faced trauma in her fall, surgery, and relocation to a nursing home and to another state. Her home was in Pennsylvania, and there may have been more evidence of her wishes and values in that state.	Under the Act, Pennsylvania would be the home state. The Ohio court could have declined jurisdiction on the grounds that Pennsylvania was a more appropriate forum -- where the respondent could have access to evidence to support her case.

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
Jurisdiction	*Matter of Glasser*, 2006 WL 510096 N.J. Super. Ct. Ch. Div. (2006), unpublished opinion not reported in A.2d	*NJ*	TX	**Case Summary.** Lillian Glasser was long-time New Jersey resident. She visited her daughter in Texas, and the daughter filed for and was awarded temporary guardianship. Son and nephew objected, stating that the matter should be heard in New Jersey. Issue was whether New Jersey court should defer to Texas court. New Jersey court held Lillian Glasser had more contacts in New Jersey, that there was no evidence that she intended change domicile, and that state public policy favors that capacity of domiciliaries be determined in New Jersey courts. Court then held lengthy hearing in New Jersey on capacity, selection of guardian & other issues. **Human Face:** This was a highly contested battle between siblings to control their mother and her $25 million fortune. The case involved dozens of lawyers and resulted in legal fees in Texas alone in excess of $1.5 million. The 86-year-old widow Lillian Glasser was kept in Texas, away from her home in New Jersey. According to the guardian ad litem, she "repeatedly expressed her desire to return to her home in New Jersey." The guardian ad litem suggested that her "inability to live in her own home is a continuing source of distress for her that may actually be aggravating her physical and mental condition."	Under the Act, New Jersey would be the home state, and the Texas court could have declined jurisdiction because of unjustifiable conduct of the daughter. The Act would facilitate timely resolution and promote communication between judges, saving vast amount of time and expense over extended litigation.
Jurisdiction	*Guardianship of Bessie Santrucek,* 2007 WL 1934729 (Ohio Ct. App.. 2007)	MN	*OH*	**Case Summary:** Bessie lived in Minnesota near the Ohio border. Daughter placed Bessie in assisted living in Ohio, and filed for guardianship in Ohio court. A third party from Arizona challenged jurisdiction. The trial court ruled that it had jurisdiction and that the case should not be removed to Minnesota. Third party appealed and court rejected appeal due to lack of standing.	Under the Act, Minnesota would be the home state, with Ohio as a possible significant connection state. The Act would facilitate

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
				Human Face: Bessie was 96 years old. Daughter traveled periodically from Ohio to visit her mother. Since Bessie lived near border, she could have significant connections in both states.	communication between judges.
Jurisdiction	*In the Matter of the Guardianship of Loyce Juanita Parker,* 189 P.3d 730 (2008) *In the Matter of the Guardianship of Loyce Juanita Parker,* 275 S.W. 3d 623 (TX App. 7th Dist. 2008) *In Re Alvin Edward Parker, Jr., Relater,* 2009	*OK* OK OK	TX *TX* *TX*	**Case Summary:** Loyce lived in Oklahoma for most of her life but resided near her daughter in assisted living in Texas for several months, while awaiting an opening in assisted living in Oklahoma. The feuding daughter in Texas and son in Oklahoma filed numerous motions that resulted in four reported cases. • Daughter filed for guardianship in Texas, and son in Oklahoma opposed, arguing that her permanent domicile was in Oklahoma. • Son moved mother to Oklahoma and petitioned Oklahoma court for guardianship. Oklahoma court appointed son as special guardian and he filed for permanent guardianship. Son applied for appointment in Texas court as well. • Texas court granted daughter temporary guardianship and ordered son to return mother to Texas. Loyce Juanita Parker refused to leave Oklahoma. • Oklahoma court held hearing on permanent guardianship for daughter, limiting scope of hearing to jurisdiction. Mother testified that she considered Oklahoma her home. Oklahoma court granted son a restraining order against daughter's removal of mother from state. Daughter initiated emergency application to Oklahoma Supreme Court. • Meanwhile, Texas court held son in contempt, and issued a Writ of Capias directing sheriff to take son into custody. Texas court appointed daughter permanent guardian.	Under the Act, the home state would be Oklahoma, as the stay in Texas was temporary. Texas could have declined jurisdiction based on presence alone and based on the unjustifiable conduct of the daughter. The Act would have facilitated resolution of the jurisdictional question and promoted judicial cooperation, avoiding the two years of intensive litigation.

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
	Tex. App. LEXIS 3954 (TX Ct. App. 7th Dist., Amarillo 2009) *Alwin Edward Parker, Jr., Trustee of the Alwin Edward Parker, Sr., and Loyce Juanita Parker Trust v. Linda Sue Jones,* 2009 U.S. Dist. LEXIS 102195 (U.S. Dist. Ct., W. Dist. OK 2009)	*OK*	TX	• Oklahoma trial court held that it had jurisdiction of the guardianship because mother's domicile was Oklahoma. • Oklahoma Supreme Court assumed jurisdiction and ordered trial court to decide on daughter's motion to dismiss, which trial court denied. Oklahoma Supreme Court granted daughter's motion for emergency stay, allowing hearing on jurisdiction to proceed in Oklahoma trial court but staying hearing on general guardianship. Physician stated mother did not have capacity to change her domicile to Texas. Oklahoma trial court held it had jurisdiction. • At hearing in Oklahoma, counsel for son advised court that daughter came to the Oklahoma assisted living facility during the night, removed mother during the shift change, and drove her to Texas where she has been ever since. • Oklahoma trial court appointed son guardian, and daughter appealed. • Oklahoma Supreme Court said Oklahoma trial court's order appointing son special guardian should have precluded Texas from proceeding with daughter's guardianship application because it was first judgment and should have been given full faith and credit. Oklahoma Supreme Court said Texas trial court did not have jurisdiction, as mother's property was all in Oklahoma, and she has resided in Oklahoma, as her stay in Texas was temporary. • An attorney for Loyce Juanita Parker on her behalf appealed the Texas trial court's decision appointing daughter as guardian, on basis of lack of jurisdiction as well as insufficiency of finding of incapacity. The Texas appellate court affirmed appointment of daughter, stating that Texas had jurisdiction and that the trial court did not abuse its authority.	

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
				• Following this, the son filed in Texas Appeals Court for a writ of prohibition to stop the trial court from vacating the Oklahoma order. The court, stating that it already had affirmed the lower court on the issue of jurisdiction and thus there was no case pending, dismissed the petition. • Finally, in the fourth reported decision in the long-running dispute between the siblings, the son filed actions in Oklahoma for breach of trust and recovery of attorney's fees against daughter, and sought order for the return of Loyce Juanita Parker to Oklahoma. Daughter removed the case to federal district court, and filed motion to dismiss. Federal court granted motion, finding there was no breach of the trust; and that it lacked subject matter jurisdiction due to "Rooker-Feldman doctrine" which prevents lower federal courts from exercising jurisdiction over cases brought by state court losers challenging state court judgments before the district court proceedings commenced. **Human Face:** Loyce was an elderly incapacitated woman caught between two feuding adult children. She temporarily left her lifelong home state of Oklahoma to stay for a short period in Texas; was taken back to Oklahoma; and again taken to Texas. Meanwhile, during the course of two years, competing battles were waged in Texas and Oklahoma courts, and finally federal court, with multiple attorneys and experts and dozens of separate motions to be considered by the courts. Loyce Juanita Parker remains in Texas, despite stating that she wants to "go home" to Oklahoma, and despite the fact that all of her property is in Oklahoma.	
Jurisdiction	*In Re*	NJ	*FL*	**Case Summary:** Mr. Morrison lived in New Jersey with his longtime	Under the Act, the

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
	Guardianship of Morrison, 972 So.2nd 905 (Fl. Dist. Ct. App. 2007)			companion and girlfriend. After a head injury, he received in-home care in New Jersey until his adult children took him to Florida without companion's consent or knowledge. Companion filed a petition in New Jersey court, which issued an order to show cause and held proceedings at which the children were represented. Daughter filed competing petition in Florida, and Florida court issued letters of emergency guardianship. Companion filed motion in Florida court requesting court to set aside letters of guardianship or hold in abeyance pending New Jersey action. Florida court denied the motion and entered order of incapacity. New Jersey court held a hearing on standing and jurisdiction, and issued an order holding that New Jersey had jurisdiction because Morrison was a domiciliary. Companion filed a motion in Florida asking court to revoke appointment or stay proceedings based on principle of priority. Florida court denied the motion and she appealed. Appellate court in Florida reversed and remanded, holding that New Jersey was first to exercise jurisdiction, in issuing the show cause order, and that as matter of comity, the Florida lower court abused its discretion in failing to stay the proceedings. **Human Face:** Mr. Morrison was 71 years old and incapacitated due to head injury. He was removed from his longtime home. His companion filed five motions over five months, and all parties participated in hearings in both states, at great expense.	home state would be New Jersey, and Florida could have declined jurisdiction because New Jersey was a more appropriate forum. The Act would have resolved the jurisdictional question, avoiding the lengthy litigation.
Jurisdiction	*Trambarulo v. Whitaker*, 2007 WL 3038792 (Conn. Super.	NJ; DE	*CT*	**Case Summary:** Maydelle Trambarulo was a resident of New Jersey for close to 50 years, and then lived in Delaware one year. She went to Connecticut for medical treatment, where husband's niece filed for conservatorship, and a permanent conservator was appointed. Connecticut probate court declined to allow her to return to New Jersey. Connecticut	Under the Act, New Jersey would be a significant connection state. The Connecticut court

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
	(not reported in A. 2d)			appellate court found Trambarulo had no intent to establish domicile in Connecticut and reversed, ordering that arrangements be made to transfer the guardianship to an appropriate individual or entity in New Jersey; and ordering that she be permitted to leave Connecticut. **Human Face:** Maydelle Trambarulo, age 77, was in deteriorating health, with Parkinson's disease. She traveled to Connecticut in 2004 with intent to receive treatment only, and packed for a short stay. Her husband and two of her children were in New Jersey; and her son in Delaware. She was not allowed to leave the state until the appellate court order in 2007, when she was under hospice care. During that time, the probate court denied the family's various requests for relief.	could have declined jurisdiction because New Jersey is a more appropriate forum and because of the unjustifiable conduct of the niece. Thus, the incapacitated person would not have been trapped in Connecticut for an extended period.
Jurisdiction	*Guardianship of Betty Pat Graham et al v Luke Graham*, 963 So.2d 275 (Fl. Dist. Ct. App. 2007); *Lawrence Graham v. Florida Dept. Children & Families, and Catholic*	*FL*	CA	**Case Summary:** While living in Florida, Betty executed a health care directive naming her son as agent and nominating him as guardian. Florida agency petitioned for and received emergency guardianship. The son secretly took Betty to California without notifying guardian or court. The Florida court held the son in criminal contempt. Son argued that the court lost jurisdiction when Betty left the state. The District Court held that improperly moving an incapacitated person cannot divest the court of jurisdiction. Court of Appeals held there was no determination of whether the health care directive was valid, and incapacity was not established. The appellate court reversed & remanded the case with direction to dismiss the guardianship and determine the validity of the directive. **Human Face:** Son moved Betty to a locked Alzheimer's unit in several different locations, under different pseudonyms. Betty did not have	Under the Act, Florida would be the home state, and another state could not gain jurisdiction by presence alone and by unjustifiable conduct.

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
	Charities of the Diocese of Palm Beach, Inc., 970 So.2d 438 (Fl. Dist. Ct. App.2007)			Alzheimer's, and Florida agency petition alleged that the son's purpose was to prevent his brother from seeing her. Son then took her to California without notice to anyone, and refused to reveal her location to the court, arguing at the same time that the court did not have jurisdiction because she had left the state and could not be located. Court held son in criminal contempt, stating that his "improper act of . . . removing Betty from Florida to a 'secret location' cannot divest the Florida court of jurisdiction."	
Jurisdiction	*In Re Guardianship and/or Conservator ship of Millicent S. Ficken,* Minn. Ct. App. A07-1848 (2008), unpublished opinion	WI	*MN*	**Case Summary:** Millicent Ficken was a resident of Wisconsin. She visited her two adult children in Minnesota, and was hospitalized there and diagnosed with dementia. Son petitioned Minnesota court for emergency guardianship and conservatorship, and the court appointed a professional fiduciary. At the hearing for the permanent order, the parties reached a stipulated agreement to avoid guardianship through the use of a care management contract and trust. Emergency guardianship was to be continued until the plan was in place, and the agreement was to be incorporated into stipulated court order. Minnesota district court approved the agreement, but disputes arose about implementation. The professional fiduciary petitioned for enforcement, and the son sought to void the agreement based on lack of jurisdiction. The court found it had jurisdiction over guardianship and conservatorship proceedings under Minnesota law. Daughter appealed. At issue was the conservatorship jurisdiction over property, not the guardianship jurisdiction over person. The appellate court said there was no jurisdiction in Minnesota, as there was no property in the state; and that Wisconsin was the proper forum for a conservatorship proceeding. **Human Face:** Millicent Ficken was a 75-year-old resident of Wisconsin who	Under the Act, Wisconsin would be the home state, and the Minnesota court could have declined jurisdiction as Wisconsin is a more appropriate forum. The extended litigation could have been avoided.

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
				visited her adult children for Thanksgiving, had a medical emergency while there, and became the subject of an extended guardianship and conservatorship proceeding in Minnesota, even though her home, connections (except for her children) and property were in Wisconsin.	
Jurisdiction	*In re Conservator Ship of William Paul Ackerman,* 280 W.W.3d 206 (2009)	*TN*	KY	**Case Summary:** William Paul Ackerman lived most of his life in Tennessee. He suffered strokes and became a patient of a Tennessee nursing home. Following this, he was married in Kentucky, honeymooned in Florida, and then suffered another stroke before returning to the Tennessee nursing home. Mr. Ackerman's brother, sister and son were appointed co-conservators of his person and property by county probate court in Tennessee. The wife appealed, arguing that the Tennessee court lacked jurisdiction, as he was a resident of and domiciled in Kentucky, where the couple was married. The Court of Appeals found that domicile was necessary for guardianship jurisdiction, and that Mr. Ackerman was domiciled in Tennessee, where he had the closest ties, and that he lacked capacity to change his domicile. The judgment of the trial court was affirmed. **Human Face:** Mr. Ackerman was a long-time professional staff drummer for recording studios in Tennessee. His brief sojourn in Kentucky when he was married does not compare to his lifetime ties in Tennessee, where jurisdiction should be exercised.	Under the Act, Tennessee would be the home state. The court could have avoided inquiry into domicile, and resolved the case more expeditiously.
Jurisdiction	*Guardianship of Armando Garcia Cardenas* (2010 WL	*TX*	MEXICO	**Case Summary:** The son of Mr. Cardenas filed a petition in the Cameron County TX court to appoint himself as temporary guardian of his father, who lived in Mexico. The son claimed that Mr. Cardenas' assets had been expropriated by his two daughters. The son tried to serve his sisters with notice but they could not be found. A U.S. attorney representing a Mexican	Under the Act, Mexico would be the home state, and the extended consideration

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
	2543650, Tex.App.—Corpus Christi			attorney -- who in turn represented Mr. Cardenas – made a special appearance objecting to the trial court's jurisdiction. The attorney asserted that Mr. Cardenas lived in Mexico, and had never been a resident of or domiciled in Texas. The trial court found that Mr. Cardenas was domiciled in Mexico, that his contacts with Texas were attenuated, and that the court lacked jurisdiction. The court of appeals affirmed. **Human Face:** Mr. Cardenas was an 84-year-old Mexican businessman dealing with various physical and mental health issues. While the proceeding was pending, his wife died. He had to hire a Mexican attorney, and the attorney then had to identify a U.S. attorney to make an appearance in court to object from afar to the court's jurisdiction.	concerning domicile and jurisdiction could have been avoided, sparing the alleged incapacitated elderly person anxiety and expense over the lengthy proceedings.
Jurisdiction	*In the Matter of Floretta Sutton-Logan* (2009 WL 2707357, N.J. Super. A.D.)	*NJ*	VA	**Case Summary:** Petitioner and Floretta, alleged incapacitated person, were married in New Jersey. It was a second marriage for both, and they each had adult children. Both had lived many years in New Jersey. They moved to Virginia when the petitioner got a job there. Floretta named her daughter as an agent under a power of attorney. While visiting New Jersey, Floretta became ill, was hospitalized, and then admitted to a New Jersey nursing facility. Floretta's daughter filed a petition in New Jersey court to be named as her guardian. The court appointed the daughter and the husband as temporary co-guardians of the person and the daughter as temporary guardian of property. The husband challenged the court's jurisdiction and sought appointment as the guardian. The trial court found that the move to Virginia did not affect the New Jersey domicile and that New Jersey was the appropriate forum to	The couple resided in Virginia for three years and thus it would be the home state under the Act. However, there was no filing in Virginia. New Jersey clearly was a significant connection state, and could thus have had jurisdiction without the lengthy determination of

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
				determine the guardianship. The court appointed the daughter, and the husband appealed, challenging the jurisdiction. The appellate court concluded that Floretta had more ties with New Jersey than Virginia, and named New Jersey as her domicile. **Human Face:** Floretta, an elderly woman with serious health problems, had a close relationship with both her daughter and husband, but differences arose between them. These differences were exacerbated by the lengthy guardianship proceeding, including the jurisdictional issue.	domicile. Adoption of the Act might have facilitated a more timely resolution of the jurisdictional issues.
Jurisdiction; recognition	*In Re: Shelda Jean Robinette*, 624 S.E.2d 533 (W. Va. 2005)	*WV*	OH	**Case Summary:** Shelda had resided in both West Virginia and Ohio all her life, but in West Virginia since 2001; and had property in both states. At daughter Kathy's request, the Ohio court appointed an attorney as guardian and conservator. Other daughter Carla later filed a petition in West Virginia, and the court appointed her to serve as guardian/conservator. Kathy filed a petition in West Virginia court for modification, not challenging the appointment but requesting a modification to establish a "shared custody" arrangement. West Virginia circuit court denied the modification, and Kathy appealed. Supreme Court of Appeals of West Virginia affirmed the circuit court's appointment of Carla as guardian; but found that Shelda's property and assets in Ohio were more likely to be efficiently managed for her benefit by the existing Ohio conservator, and remanded the case for this modification. **Human Face:** Shelda was "an elderly woman who is no longer capable of making complicated decisions about her own welfare." The two daughters had "a stormy relationship" which was played out in the circuit court and	There were two competing proceedings in two states, with significant connections and property in both states. The Act would promote communication between the courts. The Ohio conservator could register and be recognized in West Virginia, but judicial communication would be

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
				court of appeals litigation.	necessitated.
Recognition	*In re Estate of O'Keefe*, 833 So.2d 162 (2002)	MT	*FL*	**Case Summary:** Sally O'Keefe was incapacitated and a life-long resident of Montana. In the course of probating her father's estate in Florida, the following were appointed: a guardian ad litem in Florida, a conservator in Montana by a Montana court, and a guardian ad litem in Montana. The conservator (Sally's brother) and other family members proposed a family settlement agreement in which Sally would assign her interests in her father's estate in exchange for establishment and funding by other family members of a special needs trust. The Florida guardian ad litem opposed the proposal, while the Montana guardian ad litem supported it. The Montana court approved the proposal. The Florida guardian ad litem challenged the proposal in Florida, claiming that the Montana court had no subject matter jurisdiction over Sally's interest in her father's Florida estate. The Florida trial court ruled that the Montana order was not entitled to full faith and credit. The Florida appellate court overturned the trial court's decision, ruling that the Montana court clearly had personal jurisdiction over its incapacitated residents and subject matter jurisdiction over its resident's interest in an estate distribution governed by Florida law. (While father's property was in Florida, she had only an interest in intestate estate upon disposition, no current jurisdiction over any Florida property.) **Human Face:** This was a very complex case involving three states, a forged will, and allegations that Sally O'Keefe's father had financially exploited his own mother. Jurisdiction was only one of several intertwined issues.	Under the Act, the Montana conservator could register and seek recognition in Florida. The Act could bolster communication between judges in this complex case.
Recognition	*In Re*	FL	*MA*	**Case Summary:** Margaret Enos lived in Florida, where a private non-profit	Under the Act, the

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
	Guardianship of Margaret Enos, 670 N.E.2d 967 (1996)			agency was appointed her guardian. Without authority or notice, her daughter took her to a Massachusetts nursing home, claiming that the agency had neglected Enos. Agency, with Florida court order, sought return of Enos to Florida. Daughter filed for guardianship in Massachusetts. Massachusetts court ordered surrender of Enos to agency, for return to Florida, and dismissed daughter's petition. Daughter appealed, contending that Florida guardianship was not entitled to recognition in Massachusetts. Appellate court affirmed, recognized Florida guardianship and stated that Florida had jurisdiction. **Human Face:** Margaret Enos was 90 years old. All of her connections except her daughter were in Florida, yet she was suddenly uprooted from Florida and taken to a Massachusetts facility. Her ability to travel back was questioned as possible "unacceptable risk." Moreover, the guardian agency had to spend estate funds to petition the Massachusetts court for her return and custody. While daughter alleged agency was neglecting her mother, she should have made this argument in Florida.	Florida guardianship agency could register and seek recognition in Massachusetts, avoiding lengthy litigation.
Recognition	*In the Matter of Steven Prye*, 169 S.W.3d 116 (Mo. Ct. App. 2005)	IL	*MO*	**Case Summary:** Steven Prye, with Tennessee roots, was involuntarily committed in Illinois, and had Illinois public guardian (Office of State Guardian), and was placed in Missouri facility. There was a petition for a Missouri guardian. Missouri lower court failed to recognize Illinois public guardian. Missouri appellate court found Illinois guardianship was entitled to recognition & enforcement by Missouri courts under Full Faith and Credit Clause of U.S. Constitution and Missouri statute. **Human Face:** Steven Prye was a 52-year-old professor with mental illness.	Under Act, the Illinois guardian could have registered the order in Missouri, and it would have been recognized and enforced without need of litigation.

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
				The Illinois Office of State Guardian facilitated an evaluation at Washington University in St. Louis, Missouri, which revealed Prye suffered from Schizo affective Disorder, Bi-polar type. He was in and out of psychiatric wards with numerous behavior problems and violent incidents. Recognition of the Illinois guardianship could have expedited proper treatment.	
Recognition	*In the Matter of Myrtle Dunn,* 181 S.W.3d 601 (Mo. Ct. App. 2006)	IL	*MO*	**Case Summary:** Myrtle Dunn was an Illinois resident with an Illinois guardian, who sought treatment for mental illness in a Missouri hospital. The hospital filed a petition for electroconvulsive therapy, as required by Missouri law. The probate court dismissed the petition for lack of jurisdiction, finding that only guardians or conservators may petition for such treatment, and that Missouri did not recognize a guardian appointed by another state. The appellate court found that the probate court erred in refusing to recognize the Illinois guardianship. The court noted that recognition is required by the Full Faith and Credit clause of the U.S. Constitution, and cited *In Re Prye.* **Human Face:** Myrtle Dunn sought treatment for chronic schizophrenia, and suffered from assaultive thoughts and behavior and intermittent suicidal ideation, posing a threat to herself and others. She was put at risk in waiting for appellate review of the jurisdictional (and other) issues.	Under Act, the Illinois guardian could have registered the order in Missouri, and it would have been recognized and enforced without need of litigation.
Recognition	*Leila Hilkmann v. Dirk H. Hilkmann,* 858 A.2d 58 (Pa. 2004)	Israel	*PA*	**Case Summary:** Daniel Hilkman was an 18-year-old adult with a neurological impairment. His parents were divorced, with mother and Daniel living in Israel, and father in Pennsylvania. School asked mother to seek guardianship to make decisions about curriculum. She filed and was appointed under Israeli law, with no notice of the proceedings to Daniel. Father objected, and after Daniel's visit to Pennsylvania, kept him there and	Since Article 4 of the Act (recognition and enforcement) does not include orders from a foreign country, the court

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
				enrolled him in school. Mother filed petition in Pennsylvania court to enforce Israeli order. Father challenged Pennsylvania court's jurisdiction for such enforcement. Trial court granted mother's petition on grounds of comity. Appellate court reversed, stating that Israeli guardianship procedure differed substantially, particularly that Daniel was not given notice. Pennsylvania Supreme Court affirmed appellate decision, analyzing principle of comity and its criteria, noting lack of procedure in Pennsylvania law for recognition and transfer of foreign guardianship orders. Noted need for approval of the exporting court and notice to the incapacitated person. The court stated that the Israeli order was for the limited purpose of curriculum decisions, not removal from the country, which would require procedural protections. **Human Face:** Daniel was a young adult with cognitive impairment, who attended school and was preparing for employment. He "became upset" when he learned of the guardianship. As his parents argued across international borders over where he would live and go to school, he had no opportunity to participate and express his opinions.	would be left with principles of comity and its exceptions including the need for procedural due process protections. The court could cite Act as providing a jurisdictional model.
Transfer	*In the Matter of Brian Pulley v. Sandgren,* No. WD 64966 (Mo. Ct. App. 2006)	MI	*MO*	**Case Summary:** Mother and father of Bryan Pulley lived in Missouri. They divorced and the mother moved to Michigan. Bryan sustained brain injury at age 17. Mother took Bryan to Michigan for rehabilitation, and Michigan court appointed her guardian. Bryan returned to Missouri with father six years later. After three years, Father wanted guardianship of Bryan, and filed petition in Missouri court to register and modify the Michigan guardianship order. He requested a transfer of the guardianship to Missouri. Following a hearing with participation of Mother, Michigan court transferred guardianship to Missouri. Missouri judge held hearing and removed mother, appointing	Under the Act, the transfer provisions are initiated by the guardian. Here they were initiated by an interested party. The Act sets out procedure for fair and expeditious transfer

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
				father. Mother appealed. Appellate court affirmed, giving full faith and credit to Michigan guardianship, and finding appointment of father to be in Bryan's best interest. **Human Face:** Bryan Pulley was a young man who enjoyed living with his father in Missouri, and was involved in a daily routine and work-related activities in Missouri. It was in his interest to resolve the jurisdictional questions as soon as possible.	with participation by interested parties. The Act would facilitate communication and cooperation between courts.
Transfer	*In Re Guardianship of Jane E.P.*, 700 N.W.2d 863 (Wis. 2005)	IL	*WI*	**Case Summary:** Jane E.P. was an incapacitated person living in a nursing home in Illinois, near the Wisconsin border. Jane's guardian, her sister, wanted to move her to a private nursing facility in Wisconsin, close to relatives. A Wisconsin county department of social services filed a petition for guardianship and protective placement, naming the sister as guardian. The county unified board sought dismissal based on a Wisconsin statute requiring respondent to be a resident at the time of filing. The circuit court dismissed the petition. The court of appeals reversed, determining that, as applied to Jane, the statute violated her constitutional right to interstate travel. The court reasoned that since she was incapable of living outside a facility, she could not move to Wisconsin to become a resident, as she would have nowhere to live. Wisconsin Supreme Court vacated the court of appeals decision and remanded to the circuit court. The Supreme Court recommended that the standards articulated in the National College of Probate Judges Advisory Committee on Interstate Guardianships Final Report be used to resolve such interstate cases of transfer of guardianships from one state to another, and governing communication and cooperation between courts.	The Act would enable Jane's guardianship to be transferred expeditiously.

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
				Human Face: Jane was a 47-year-old woman who suffered from Wernicke's encephalopathy, and was unable to care for herself. Jane's guardian and many of Jane's relatives lived just across the Illinois border in Wisconsin. The question in this case was how to promote comity between the states and an outcome in Jane's best interest -- how to provide for an orderly transfer to Wisconsin where she would be closer to her family.	
Transfer	*In the Matter of the Guardianship and Protective Placement of Catherine P.,* 718 N.W.2d 205 (Wis. Ct. App. 2006)	*WI*	CT	**Case Summary:** Daughter, Connecticut resident, filed in Wisconsin to become guardian of mother, Catherine. Son objected, but after extensive hearings, Wisconsin court appointed daughter as guardian of person, and specified Catherine's living arrangements in Wisconsin, Florida and Connecticut. After hospitalization, Catherine went to a Wisconsin nursing home. Without notice to court or anyone else, daughter removed Catherine from Wisconsin nursing home and placed her in assisted living in Connecticut. Daughter filed petition to become guardian ("conservator") in Connecticut, and Connecticut court appointed her as temporary guardian. Wisconsin court conducted hearing on her transfer. Son moved for removal of daughter as guardian in Wisconsin court. Wisconsin court removed daughter as guardian, daughter appealed, and son cross-appealed, arguing that guardian cannot transfer a ward outside state without court approval. Appellate court concluded that Wisconsin law did not authorize daughter to move Catherine out of state. Court cited *Jane E.P* and National Probate Court Standards requiring court permission and notice. Removal affirmed. **Human Face:** Catherine was an elderly incapacitated person in the middle of a hostile relationship between her son and daughter. She was precipitously moved to another state where she said she felt like "a stranger in a strange	The Act would govern the transfer procedures, providing for notice and hearing, expediting the process while providing opportunity for all to be heard.

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
				land." Yet moving her back presented possibility of further trauma. Numerous motions, court hearings, appointment of a guardian ad litem, independent evaluator, psychologist and counsel over a four-year period consumed vast resources and time.	
Transfer	*Hetman v Schwade,* __S.W.3d__, 2009 Ark. 302, 2009 WL 1423417 (Ark.)	PA	*AR*	**Case Summary:** Jean Hetman filed a petition for emergency guardianship of her mother, Ms. Vicari, in Pennsylvania. The Pennsylvania court appointed Hetman and her sister Annamarie Schwade as co-guardians of Vicari's person and estate. Hetman placed Vicari in care facilities in Pennsylvania and New Jersey from 2000 to 2006. In 2006, Schwade removed the mother to Arkansas and filed for appointment as guardian in the Arkansas court. Hetman filed in Pennsylvania to become sole guardian. Schwade countered, asking the Pennsylvania court to appoint her as sole guardian and transfer jurisdiction to Arkansas. In 2007, the Pennsylvania court terminated Hetman's guardianship and made Schwade sole guardian, transferring jurisdiction to Arkansas. The Arkansas court accepted the case. Hetman objected to Schwade's petition for accounting in Arkansas that alleged inappropriate expenditures; and Hetman argued that the Arkansas court lacked jurisdiction over matters that took place in the Pennsylvania proceeding; and that the Arkansas court had no authority to order a non-Arkansas guardian to file an accounting. The Arkansas court found that since Hetman had personally appeared by filing pleadings, it had jurisdiction and ordered the accounting and documents. Hetman appealed. The Supreme Court of Arkansas reversed, finding that while the lower court had both subject matter jurisdiction over guardianship and personal jurisdiction over Hetman, under common law principles a foreign guardian could only be held to account in the state in which the guardian was	Under the Act, provisions are made for transfer of guardianship cases, with procedural safeguards. While the guardianship in this case was "transferred" from Pennsylvania to Arkansas, the transfer did not include an opportunity for objection. Under the Act, Schwade could have objected to the accounting in both the Pennsylvania proceeding to transfer the case and the Arkansas proceeding to accept the case, and this would have

UAGGPJA Issue	Case	First State Involved	Second State Involved	Case Summary; Human Face	UAGPPJA Resolution
				appointed. **Human Face:** In this case, acrimony and suspicion developed between two sisters over matters concerning guardianship of their mother, particularly the nature of expenditures in the estate. A more timely resolution of this issue would have prevented unnecessary litigation expenses and brought the matter to a more expeditious conclusion.	brought it to the attention of the courts in a timely fashion.
Transfer	*In the Guardianship of Billy Wayne Norris,* 2010 WL 26314 (Tex. App.-San Antonio)	*TX*	LA	**Case Summary:** The two adult children of Billy Wayne Norris each filed for guardianship of the father in different states. The son, Norris, was appointed in Texas and the daughter, Allen, in Louisiana. The father lived in Texas but most of the property was in Louisiana. Allen appealed the Texas decision, and then filed a motion asking the Texas court to remove Norris. The Texas probate court gave full faith and credit to the Louisiana order, removed Norris as guardian of the estate, dismissed all pending litigation for lack of jurisdiction, and transferred the guardianship to Louisiana. Although the incapacitated person died, Allen asserted that her appeal was not moot because the Texas order was conditioned on acceptance by the Louisiana court of the transfer. The appellate court found that there was evidence that the Louisiana court was exercising jurisdiction, as it had appointed an administrator of the estate, and thus the appeal was moot. **Human Face:** Lack of an orderly transfer process caused the parties and the court to unnecessarily prolong the case, and thus the acrimony between the siblings.	Under the transfer provisions of the Act, a petition to transfer could have been filed in both courts, and after an opportunity to hear any objections, Louisiana as the receiving state could accept the case, and Texas as the sending state could close it. The Louisiana court could make any needed modifications within 90 days.

Multi-State Guardianship Jurisdiction Stories
Supporting Need for the *Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act* (UAGPPJA), Sorted by Issue

American Bar Association Commission on Law and Aging
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UAGPPJA Issue	Problem	First State Involved	Second State Involved	Summary of Facts	How the Act Could Help
Jurisdiction	Elder moved to different state and was prevented from moving home	AL	TX	Woman age 98 was lifelong resident of Alabama. She owned property in Alabama and Washington DC. She had substantial assets of nearly $1 million. She fell in her home and was seriously injured. Distant relatives in Texas came to Alabama and took her to Texas to recover. As soon as they arrived in Texas, they petitioned for protective proceedings. Both the Alabama and Texas courts stated that since she was present in Texas, Texas had jurisdiction. Depositions showed she wanted to live in Alabama, but has been in Texas ever since. The parties have run up nearly $300,000 in legal fees, paid from her estate.	Under the Act, protective proceedings would be brought in Alabama (the "home state") where the woman had connections and property, rather than in Texas. The Texas relatives could not have obtained jurisdiction over the woman by taking her across state lines. The expensive litigation in Texas could have been avoided, thus saving the resources for the respondent and the court.

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Jurisdiction	Nephew moves relative to another state due to abuse in the home state	AL	OR	Nephew moved elderly individual from Alabama to Oregon because person was being abused by family members living in the individual's home. The person had cousins in Oregon but no other ties. Adult protective services substantiated the abuse, and the nephew's intentions were good. The nephew and cousins could not afford to travel to Alabama to file for guardianship or conservatorship. Also, there was a question of whether the move was consistent with the person's wishes.	Nephew could file in Oregon, which could determine that even though it is not the home state it is the most appropriate forum under the circumstances, particularly if there is no filing in the home state of Alabama. If, however, abusive family members in Alabama file for guardianship there, the courts could communicate as to the best interests and wishes of the individual.
Jurisdiction	Incapacitated person wants to go home; gets lost	AZ	AL; GA	Alleged incapacitated person lived in Alabama, and visited adult child in Arizona. Child wanted to file for guardianship in Arizona, but parent was opposed and wanted to go home. Parent got on a plane for Alabama but ended up in a psychiatric ward in Georgia. Atlanta hospital agreed to release the person to the child's "custody." Child's lawyer seeks advice on where to file.	The Act would specify Alabama as "home state," in which a petition could be filed – unless there was an emergency, in which case if parent was present in Arizona, filing could be there. The Act provides clear guidance to lawyers and judges, thus saving family and court resources.
Jurisdiction	Competing petitions of parents in two states	CA	IL	Adult son with Downs Syndrome lived in California with mother. Father in Illinois filed guardianship petition in Illinois after son had visited in Illinois for three weeks, and isolated son from mother. Illinois court dismissed the petition, based on lack of jurisdiction; and father appealed. Mother filed for conservatorship of person and estate in California. California judge refused to grant mother	Act would identify California as "home state" in which petition should be filed, avoiding the expense and time of the competing processes in two states. Judges could communicate about case and best interests of adult son. The Act provides clear guidance to lawyers and judges, thus saving family and court resources.

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				conservatorship, as appeal in Illinois was pending. After eight months and $200,000 in legal fees, mother was appointed under Illinois guardianship, and son was returned home to California.	
Jurisdiction	Elderly Katrina victim moved to different state	CA	LA	California daughter was visiting mother in Louisiana when Hurricane Katrina hit. She brought mother to California and needed to obtain conservatorship, but because mother had resided in Louisiana the daughter anticipated a jurisdictional problem.	Under the Act, Louisiana would be the "home state" where the petition should be filed. However, the Act also would enable the California judge to determine that there was no petition pending in Louisiana and that, given the situation, California would be the more appropriate forum. The Act provides clear guidance to lawyers and judges, thus saving family and court resources.
Jurisdiction	Out-of-state guardian son dissipates mother's estate	CA	TN; AZ	Two brothers had a mother in a California skilled nursing facility. First brother, who lived in Tennessee, took the mother out of the facility, against medical advice, and used a bogus power of attorney to liquidate her assets. Second brother filed for guardianship in California court. The first brother filed for guardianship in Tennessee. The judges conferred and agreed that the Tennessee court would appoint the exploiting brother as guardian, but also appointed a private fiduciary firm to manage the mother's property in Arizona. The fiduciary firm had to pursue civil litigation against the Tennessee brother to recover funds. Seven or eight	Under the Act, California would be the home state. The Tennessee court could decline jurisdiction, as the home state of California is a more appropriate forum; and could consider the Tennessee son's unjustifiable conduct in reaching that conclusion.

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				attorneys were involved in the expensive litigation, and the estate was substantially dissipated.	
Jurisdiction	Dad lured across state lines and kept there	GA	OH	Father was 85 and a widower. He lived all his life in Georgia. His daughter in Georgia cared for him in his home, taking him to doctors and to his church. Father had revocable living trust, financial durable power of attorney, and health care directive naming daughter as agent. Son in Ohio brought father to Ohio for a visit, had new durable power of attorney executed, and then filed for guardianship in Ohio. Daughter was not notified. Ohio court appointed son as guardian, and ruled it was to damaging to transport him back to Georgia. Son died and Ohio court appointed a lawyer as guardian and kept father in Ohio despite daughter's objections.	Under the Act, Georgia would be the home state. While there was no filing in Georgia, once daughter learned of the guardianship and filed objections, the Ohio court could find Georgia was the more appropriate forum, could consider the son's unjustifiable conduct as a factor in that determination. The Ohio court could send the father back to Georgia where he could be cared for by his daughter and could live out his life in his home state.
Jurisdiction	Incapacitated individual taken across international borders and held	Germany	CT	German woman was brought to Connecticut by distant relative, and probate court approved a conservatorship that kept her in the state against her will, severing connections with her family and friends in Germany. German relatives flew to Connecticut to seek her return.	Under the Act, Germany would be the "home state." Connecticut court could decline jurisdiction on basis that Germany is a more appropriate forum or that unjustifiable conduct may have been involved in the Connecticut filing.
Jurisdiction	Jurisdiction at issue	MA	NH	Respondent in Massachusetts guardianship proceeding claims to be New Hampshire resident, and seeks to contest guardianship for lack of	Facts may show that New Hampshire was the "home state" where the petition should be filed, in which case New Hampshire law would

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				jurisdiction. Lawyer questions whether New Hampshire law would best protect respondent's rights.	apply. The courts could determine whether New Hampshire or Massachusetts is the most appropriate forum. The Act provides clear guidance to lawyers and judges, thus saving family and court resources.
Jurisdiction	Daughter takes mother across state border to assisted living	MI	CT	Woman age 85 with seven adult children lived in Michigan with daughter. Two other daughters moved her to a Connecticut assisted living facility, and one filed for and was appointed temporary conservator (guardian) of the person in Connecticut court. Other children objected. Individual said she wanted to go home to Michigan. Connecticut judge named non-family conservator and appointed guardian ad litem to investigate. After lengthy court battle, Connecticut judge approved her move to a Michigan assisted living facility, and recommended that the Michigan court appoint a non-family guardian.	Under the Act, Michigan would be home state or significant connection state if there had been a filing in Michigan court. The Connecticut court could have declined jurisdiction on the grounds that Michigan is the home state or is a more appropriate forum, or that unjustifiable conduct may have occurred.
Jurisdiction	Daughter takes mom for "visit" across state lines	MI	OH	Ninety-six year old mother lived in Michigan her whole life. Ohio daughter took mother for "visit" in Ohio, and placed her in Ohio assisted living facility. Daughter filed petition and Ohio court granted temporary guardianship. Michigan daughter objected on grounds of jurisdiction. Court found Ohio had jurisdiction. Mother wanted to return to	Under the Act, Michigan would be the home state. The Ohio court could decline jurisdiction on grounds that Michigan is a more appropriate forum; and additionally on grounds that the Ohio daughter used unjustifiable conduct to place the mother in Michigan.

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				Michigan. Michigan daughter initiated a conservatorship proceeding in Michigan, where mother had assets.	
Jurisdiction	Courts of two states confine mother away from home	NC	FL	A daughter cared for her mother in North Carolina. The brother lived in Florida. A North Carolina court appointed a professional guardian in Florida and ordered that the mother be moved to a Florida facility. The daughter appealed in North Carolina, and the decision to send the mother to Florida was reversed, but upon remand the trial court did not honor the reversal. A Florida court also appointed the Florida professional guardian and did not hear the daughter's testimony. The litigation was draining the estate.	Under the Act the home state would be North Carolina. The Florida court could have recognized North Carolina's jurisdiction to appoint a guardian, thus avoiding a hearing and appointment in Florida and saving family and court resources.
Jurisdiction	Interstate snatch by son	NJ	CA	Father and son lived together in New Jersey, and the father seemed happy with the arrangement. While the son was preparing a guardianship petition, the other son from California suddenly flew in and took the father -- without the brother's knowledge or permission -- to California. The New Jersey son sought the immediate return of his father.	Under the Act, the home state is New Jersey, and the California brother, who engaged in unjustifiable conduct, could not obtain jurisdiction in California. Son in New Jersey could be appointed guardian, with authority to seek father's return. Moreover, a California court could cooperate in any proceedings considering the return of the father to New Jersey.
Jurisdiction	Out-of-state guardian and lawyer depletes	NY	FL	A father lived and built a business in New York. A stroke caused dementia. A distant cousin lured him to Florida, where	Under the Act, New York would be the home state. The Florida court could have declined jurisdiction

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	estate			a guardianship agency and a lawyer rapidly depleted the estate before the New York daughter intervened.	because it is not an appropriate forum and because the cousin engaged in unjustifiable conduct to lure the father away.
Jurisdiction	Elder hospitalized during out-of-state visit, and forced to stay	NY	CT	Eighty-six year old New York man became ill while visiting daughter in Connecticut, and was hospitalized. Connecticut probate court appointed non-family conservator, who kept him in a Connecticut nursing home until Connecticut Superior Court intervened, calling the case "a terrible miscarriage of justice."	Under the Act, New York would be home state. Connecticut court could have declined jurisdiction on grounds that New York is more appropriate forum.
Jurisdiction	Snatch of an incapacitated person across state lines	OK	NC	Incapacitated person under guardianship in Oklahoma was taken without notice to North Carolina, where a new guardianship of estate was created. The individual was then "dumped" back in Oklahoma. Attorneys used RICO wire fraud provisions in the eventual restoration of the estate in Oklahoma.	Under the Act, the North Carolina court would recognize that Oklahoma is the home state, and consider the unjustifiable conduct of the person(s) who snatched the incapacitated person in determining whether North Carolina is an appropriate forum for the case This would have mooted the need for the use of RICO in restoring the guardianship estate in Oklahoma.
Jurisdiction	Adult child "takes mom to lunch" in another state	OR	Unknown	A petition for guardianship was set for a hearing with objections before an Oregon court. Respondent's adult child visited the nursing home and "t(ook) her out to lunch," actually flying her out of state to an undisclosed location. The Oregon judge appointed counsel for mom, and	Under the Act, Oregon is the home state, and the other state could recognize Oregon's jurisdiction, and could communicate and cooperate concerning what is in the best interest of the incapacitated individual. The adult child could not

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				directed counsel to contact the other state's adult protective services. The adult child filed a guardianship petition in the other state. The Oregon judge requested contact with judge in the other state, spoke to the judge, and determined what was in the mother's best interest.	obtain jurisdiction in the other state by the mother's presence, and has engaged in unjustifiable conduct. The Act's provisions would facilitate judicial communication, rather than leaving it to the discretion of judges in different states.
Jurisdiction	Mother in nursing home needs to move closer to family	SC	DC	Mother lives in South Carolina nursing home, with no relatives nearby. Client and other family members want to move the mother to Washington, DC to be closer to family. Nursing home refuses to release her. The client wants to know in which jurisdiction to file for guardianship.	Under the Act, South Carolina would be the home state, and client should file there. The Act's clear guidance on where to file saves family and judicial resources.
Jurisdiction	Out-of-state "bad son" causes problems	TX	ID	A widow was a life-long resident of Texas. Three of her adult children also lived in Texas. A fourth child, who lived in Idaho, began exploiting the mother. A Texas judge appointed a temporary guardian of the mother's estate. The Idaho son took the mother to Idaho. The mother filed documents in Idaho asking that the Idaho son be appointed her guardian. The Texas judge found he had jurisdiction over the case and that the issue should be resolved in Texas. The mother filed an appeal to abate the Texas proceeding. Fees for the case were substantial.	Under the Act, Texas would be the home state, and Idaho could recognize the jurisdiction of the Texas court. Moreover, in determining whether it was an appropriate forum to hear the case, the Idaho court would consider whether the son had engaged in abuse and exploitation and was seeking jurisdiction through unjustifiable conduct
Jurisdiction	Lured out of state and held there	TX; MN	FL	Woman spent winters in Florida and summers in Minnesota, but after	Texas or Minnesota could be the "home state" where a petition should

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				husband's death lived in Minnesota year-round, then moved to Texas to live with her sister. Woman's daughter enticed her to come to Florida, and filed for guardianship. Florida judge appointed lawyer as guardian in Florida, and woman has not been able to return to Texas.	be filed, depending on the length of time she had been present in either state. Respondent may not have any significant connections in Florida except for the daughter, who may have engaged in "unjustifiable conduct." Under the Act, the Florida court could determine that it is not an appropriate forum – or it could stay the proceeding until a petition is filed in Minnesota or Texas. The Act might prevent the daughter from using her mother's presence in Florida as a basis for petitioning in that state, and the mother could have returned to Texas. The Act provides clear guidance to lawyers and judges, thus saving family and court resources.
Jurisdiction	After incapacitated person moves, guardianship in home state is not recognized in second state.	Unknown	FL	Two elderly sisters lived together and had similar estate plans. They had jointly held assets. When the first sister died, the second sister was surrounded by other siblings who sought to move her to Florida. The court in the home state appointed the siblings as co-guardians, with the agreement that although the home state would retain jurisdiction, the woman could travel to Florida. The woman moved to Florida and all assets were transferred to the other siblings. The Florida court did not recognize the agreement in the original order in the	A Florida court could have recognized that the home state is the appropriate forum to retain jurisdiction, and could have allowed the home state court, with the evidence and records, to review the guardianship.

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				home state, and found the court in the home state did not have authority to review the guardianship.	
Jurisdiction	Sibling takes mom across state border	VA	MD	An elderly woman lived in a continuing care retirement community in Maryland. She had three children, two of whom lived in Maryland and one in Virginia. The woman began to experience problems with living on her own because of cognitive impairments, and a move to the assisted living part of the retirement community was considered. The Virginia child became enraged at this, and took the mother to Virginia, thwarting all efforts of the Maryland children to communicate with her. The Maryland children filed for guardianship in Virginia court and were appointed co-guardians. During a court-ordered visit to Maryland, the Virginia court ordered the return of the mother to Maryland, where she has since remained. The Maryland children fear the Virginia sibling will again try to interfere. (The Virginia court already had held the Virginia child in contempt for a prior infraction.)	Under the Act, Maryland would be the home state. The Virginia court could decline to exercise jurisdiction if it concluded Maryland was a more appropriate forum, and that the Virginia child had engaged in unjustifiable behavior.
Jurisdiction; Recognition	Two daughters seek guardianship of mom	CA	NC	Two adult daughters, one in California and one in British Columbia, seek guardianship of mother in North Carolina; and inquire whether California will honor a North Carolina appointment.	Act would identify North Carolina as "home state" in which petition should be filed (assuming mother was not just there temporarily); and would allow a North Carolina appointment to be recognized in

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					California. The Act provides clear guidance to lawyers and judges, thus saving family and court resources.
Jurisdiction; Transfer	Anticipated move of parents	NM	CA	Parents with dementia in New Mexico have an adult child in California who plans to move the parents to California to be closer to family. Parents will not voluntarily move. Adult child inquires whether California has a procedure to recognize out of state guardianships or transfer from New Mexico to California.	Under the Act, home state would be New Mexico. Adult child could file for guardianship in New Mexico court; and the parents would have opportunity to object and access to available evidence and contacts in New Mexico. If child was appointed guardian, Act provides procedures for recognition and if necessary for transfer to California, with opportunity for objection by parents or other parties.
Recognition	Mother needs daughters in two states to act as surrogates	AL	OH	Alabama mother had Alabama daughter as conservator. Mother moved to Ohio to live with other daughter who needs authority to consent to medical care. Lawyer for Alabama conservator asks whether the conservatorship would be recognized in Ohio, and whether an Ohio guardian of the person could co-exist with an Alabama conservatorship.	Alabama daughter could register in Ohio for recognition of authority as conservator. Judges in both states could communicate about jurisdiction for the Ohio guardianship and the co-existence of the two surrogates. The Act provides clear guidance to lawyers and judges, thus saving family and court resources. The Act could also avoid re-litigation of the conservatorship in Ohio.
Recognition	Lack of recognition of out-of-state guardian	CO	IL	Daughter in Colorado filed in Colorado court and was appointed guardian of father in Illinois. Father had behavioral issues and placement was difficult, but he	The Colorado guardian could register in Illinois and be recognized, thus saving resources of the family and court.

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				was finally accepted at a nursing home in Illinois. Later, the daughter failed to submit required reports to the Colorado court, and a Colorado agency was appointed guardian. The guardian was told (at least at one point) that the state of Illinois did not recognize the Colorado guardianship. No one was willing to petition in Illinois due to the cost.	
Recognition	Lack of recognition for sale of home	ID	MS	A veteran with a disability was living in assisted living in Idaho. The facility administrator and her husband asked the veteran to join them in living in Mississippi. The veteran purchased home in Mississippi. After Hurricane Katrina, the veteran moved back to Idaho. The Department of Veterans Affairs office in Idaho petitioned for conservatorship, and a professional conservator was appointed. The conservator sought to sell the Mississippi home and got an offer, but the bank denied the sale because the veteran was incapacitated and the Idaho conservator was not recognized in Mississippi.	Under the Act, the Idaho conservatorship could be registered and recognized in Mississippi, allowing the sale to go forward, which could have substantial financial benefit to the veteran. The Act provides clear guidance to lawyers and judges, thus saving family and court resources.
Recognition	Hospital does not recognize out-of-state guardian	IL	MO	Mary was a ward of the Illinois Office of Public Guardian. She was admitted to an Illinois hospital for mental health treatment. She required and consented to electroconvulsive therapy (ECT), but the Illinois hospital could not provide the treatment, and transferred her to a hospital	Under the Act, the Illinois guardian could register and be recognized in Missouri and could then seek court authorization for the ECT, saving family and court resources.

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				in Missouri. Missouri law requires court authorization for ECT. The Missouri court dismissed the application for ECT for lack of jurisdiction, saying the Illinois guardian did not have authority to place an incapacitated person outside of Illinois and the individual could not consent to voluntary treatment because she lacked the capacity to do so.	
Recognition	Incapacitated person crosses state line; guardian unable to retrieve him.	KY	Unknown	Guardian and elderly incapacitated individual lived in Kentucky. Individual was placed in facility near state line. He hitch-hiked into bordering state and was picked up by police of that state. Police contacted guardian. Guardian advised he had no authority to come and get individual and force him to return to Kentucky. Police drove man to border and he was able to make way back.	Under the Act, the guardian could register and his authority could be recognized in the bordering state, allowing him to retrieve the individual safely.
Recognition	Snatch for marriage across state lines	KY	AR	In Kentucky, mother filed for and obtained guardianship of adult son with intellectual disabilities. Son met a woman with intellectual disabilities online. Woman lived with her mother and family in an Arkansas group home. Woman's mother drove to Kentucky and brought the son to Arkansas where he married her daughter. Son's disability check was diverted to group home. Son's mother unable to retrieve him from Arkansas.	Under the Act, the mother could register in Arkansas and her authority as guardian would be recognized, allowing her to retrieve her son in Arkansas.

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Recognition	Authority to sell farm	MD	MO	Maryland guardian asks whether she has authority to sell incapacitated person's farm in Missouri.	Maryland guardian could register and be recognized in Missouri to sell the farm, saving family and court resources.
Recognition	Guardian needs to sign probate closing papers in another state	MO	OK; TX	Incapacitated person lives in Missouri and guardian is in Texas. Incapacitated person has an interest in property in Oklahoma which is under probate. Oklahoma attorney has advised the guardian that Oklahoma will not recognize the Missouri guardianship, and the guardian needs to determine whether she can sign the probate papers in Oklahoma.	The Missouri guardian could register the guardianship in Oklahoma and sign the probate papers, allowing for an expeditious transaction, and saving resources.
Recognition	Out-of-state placement by adult protective services	MT	KS	Montana adult protective services staff placed an individual in Kansas. The Montana APS staff worked closely with the facility, family and Medicaid to ensure the move was appropriate. The Montana APS staff sought a Kansas guardianship but ended up having a Montana family member appointed as guardian by a Montana court. The Kansas court recognized the Montana order and stated it would monitor the annual reports.	Under the Act the Montana guardian could register and be recognized in Kansas, saving family and court resources.
Recognition	Authority of out-of-state guardian not recognized to protect mentally ill individual	ND	TX	Individual with dementia and mental illness had guardian in North Dakota. Individual traveled to Texas, where he was at risk and required protection. Texas court did not recognize authority of North Dakota guardian.	Under the Act, the North Dakota guardian could register and be recognized in Texas, thus saving family and court resources.

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Recognition	Authority of out-of-state guardian not recognized to apply for public benefits	ND	VA	Client of a North Dakota guardianship agency lost benefits when she moved to Virginia. Authority of North Dakota guardian was not recognized in Virginia and thus there was no one to assist with application.	Under the Act, the North Dakota guardian could register and be recognized in Virginia, thus saving family and court resources.
Recognition	Mother seeks to thwart marriage of incapacitated daughter in another state	NY	OH	A young woman with mental and physical disabilities lived with her mother in Ohio. The mother was appointed guardian by the Ohio court. The daughter went to New York after meeting a man on the Internet. New York adult protective services alleged that the man was financially exploiting her. Also, the daughter needed ongoing medical treatment. The mother drove to New York to try to get the police to help. The police did not recognize the Ohio guardianship. The man said he was going to marry the daughter. Adult protective services was told nothing could be done to stop the marriage, as the Ohio guardianship was not recognized.	Under the Act, the mother could register and be recognized as guardian in New York, and could have authority to take action to protect her daughter.
Recognition	Examples of interstate situations	TN	TX; AL	Public guardian in Tennessee had a client who owned a house in Texas and another client with a house in Alabama. Both clients needed to sell their properties but the public guardian had no authority to act in the other states.	The Act provides procedures for registration and recognition of the public guardian's authority to sell the clients' properties in Texas and Alabama.
Recognition	Need to sell real property in	VA	MI	A conservator was appointed for an incapacitated adult by a Virginia court.	Under the Act, the Virginia conservator could register and be

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	another state			The conservator needs to sell the incapacitated person's property in Michigan.	recognized in Michigan to sell the Michigan property thus saving resources of the incapacitated and the court.
Recognition	"Family friend" sends mom across borders	VA	CA; Germany	A mother with Alzheimer's disease lived in Virginia. A "family friend" began exploiting and isolating her. The son filed a petition for guardianship and conservatorship in Virginia court, and two days later the family friend took the mother and fled the state, stopping in Tennessee to marry her, and proceeding to California.. The Virginia judge appointed the son as guardian and conservator, and the son flew to California to get the mother. He found that the family friend had sent the mother to her native homeland of Germany, where she had relatives. The family in Germany believed the story of the "family friend" and refused to send her back. Authorities in Virginia, California and Germany "k(ept) pointing the finger at the others regarding jurisdiction."	Under the Act, Virginia would be the home state; and if any proceeding were filed in California, the California courts could recognize Virginia's jurisdiction and could communicate and cooperate with the Virginia court. While the Act provides for recognition and registration, this section of the Act does not apply internationally, but could offer a good model. [However, the Hague Convention on the International Protection of Adults would apply if adopted in Germany and the U.S.]
Recognition	Authority of out-of-state guardian/ conservator needs to be recognized for sale of real property	WA	CO	A family guardian/conservator was appointed for aunt in Washington State by Washington court. Guardian needed to sell aunt's real property in Colorado, but the guardian's authority was not recognized. The guardian was required to re-litigate the entire case, at great expense.	Under the Act, the guardian/conservator could register and be recognized to sell property in Colorado, without going through a new proceeding, thus saving family and court resources.

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Recognition	Brother took mother across state lines	WA	CA	A son in Washington was agent under power of attorney for his mother. The brother from California appeared and took the mother to California. He said he would not be returning her to Washington. The son in Washington filed an adult protection action in Washington court. The brother countered with a guardianship petition in the Washington court. The Washington court ordered the return of the mother. The first son was prepared to secure counsel in California to obtain a writ of Habeas Corpus, but the brother complied with the court order to return the mother	If the Washington son eventually was appointed as guardian, he could register and be recognized in California, facilitating actions for return of the mother.
Recognition; Transfer	Another out-of-state placement by adult protective services	MT	CA	Montana adult protective services staff placed an individual in a California nursing home. A Montana court appointed a Montana family member as guardian, with the request that the family member follow up in California. The family member failed to follow up in seeking a California order. However, the nursing home nonetheless recognized the Montana guardian.	Under the Act, the Montana guardian could register and be recognized in California without the need to seek a California order, saving family and court resources.
Transfer	Lack of transfer procedure	AL	FL	Mother in Alabama was guardian for adult son with intellectual disabilities. She wished to move to Florida. The question was how to accomplish the transfer of the guardianship, as neither state had law on the subject. "The problem was that Alabama took the	The transfer could be accomplished expeditiously and fairly through the Act's dual procedures in the transferring court and the receiving court. The Act provides clear guidance to lawyers and judges, thus saving time, as well as family and

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				position that as soon as Florida established a guardianship and convervatorship, Alabama would close its guardianship/conservatorship. Florida took the position that as soon as Alabama closed its guardianship/conservatorship, Florida would consider the petition to open a Florida guardianship/ conservatorship. I [the guardian ad litem], convinced the two judges the only real world solution was to have the two judges talk to each other by telephone and reach a one-time solution."	court resources.
Transfer	Daughter needs to transfer conservatorship	CA	CT	Daughter in California sought and obtained conservatorship over mother in Connecticut, after battle with brother. Brought mom to California and had to petition all over again, following California Code. Brother flew out to California to contest.	Act provides transfer procedures allowing the daughter efficiently to transfer the Connecticut conservatorship to California without the need to re-litigate the case. The brother would receive notice in both the Connecticut and California transfer proceedings and could participate in either. The Act provides clear guidance to lawyers and judges, thus saving family and court resources.
Transfer	Foster daughter intervenes long-distance in out-of-state guardianship system to help mother	DE	TX	Foster mother was missionary in Africa and raised 75 foster children. When she suffered from dementia, she was sent to an adult foster son in Delaware. Abuse occurred, and foster daughter from Texas intervened, seeking Delaware guardianship herself. A three-year story	The Act could have facilitated an early transfer of the case to Texas, thus saving the daughter considerable time, money, and anguish.

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				ensued in which the mother had a Delaware public guardian, two professional Delaware guardians and finally the daughter was appointed as co-guardian of person and property in Delaware. Daughter brought mother to Texas and cared for her. Recovering funds from exploiter and lawyers proved difficult and expensive long-distance.	
Transfer	Felon guardian	ID	WA	A guardianship had been established in Idaho, with the incapacitated person's cousin serving as guardian. The guardian petitioned for guardianship in Washington. The guardian's petition in Washington disclosed a prior felony. In Idaho, unlike Washington, a person with a felony conviction may be appointed as guardian. The guardian ad litem expressed concern about the situation in which guardian qualifications are higher in the second state than in the state in which the guardian originally was appointed.	The guardianship could be transferred from Idaho to Washington, or the Idaho guardianship could be recognized in Washington. Either action would make it unnecessary to re-litigate the case. In either case, Washington law concerning guardian eligibility would apply. Any interested party could show whether the transfer of the case was in the best interest of the individual. The Act provides clear guidance to lawyers and judges, thus saving family and court resources.
Transfer	Difficult mental health placements and sex offender placements require transfer of guardianship	KY	WV; other states	In West Virginia, placement of persons with mental illness is very difficult, and the West Virginia Department of Health and Human Resources sometimes moves clients who are under state guardianship to Kentucky for care. West Virginia has sought to transfer the guardianships of those clients to Kentucky.	The Act provides a fair and expeditious procedure for transfer of a guardianship case, thus avoiding the need to re-litigate the case and saving the resources of the state and courts.

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				Similarly, there are problems in Kentucky in placing nursing home residents who are registered sex offenders. Some have guardians and must be placed in other states, necessitating transfer of the guardianships.	
Transfer	Planned out-of-state move	MD	IN; CA	Primary caregiver for Maryland ward is moving to Indiana. Consultation with all family and staff of Indiana nursing home finds it in best interest of ward to live in Indiana near caregiver. Guardian is in California. Lawyer inquires about possible transfer procedure.	California guardian/conservator could file for transfer of guardianship to Indiana. The Act could facilitate timely and efficient transfer with clear procedures in courts in both states, saving family and court resources.
Transfer	Need transfer and appointment of new guardian in second state	ME	PA	Incapacitated person was an elderly woman who lived in Maine. Guardian in Maine developed terminal illness. Incapacitated person's niece in Pennsylvania agreed to serve as guardian and sought to move aunt to Pennsylvania nursing home. Pennsylvania court required the niece to file a new proceeding. Individual was moved to Pennsylvania under authority of Maine guardian, who continued to act until the Pennsylvania appointment was completed. Then the Maine guardianship was terminated.	The Act could provide a fair and expeditious procedure to transfer the guardianship from Maine to Pennsylvania, avoiding the need for a redetermination of capacity and saving substantial cost.
Transfer	Guardian anticipates move of incapacitated	MI	NE	A Michigan guardian was sending a ward to Nebraska for an extended vacation with family, and hoped for eventual	The Act could facilitate expeditious transfer of the guardianship from Michigan to Nebraska, avoiding

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	person			guardianship for brother in Nebraska. Michigan probate judge advised guardian to maintain appointment and stay in touch with family until there was a determination about the Nebraska guardianship.	costly re-litigation and offering opportunity for objection by all parties. Nebraska court could substitute brother as guardian after case transfer if no objection.
Transfer	Move to new state necessitates new guardianship	MO	NM	Woman lived in Missouri, and was under guardianship there. She moved to New Mexico and while there she became very ill. A new guardianship case was filed in New Mexico, and once a guardian was appointed, the guardian in Missouri was dismissed. The attorney comments that he has had similar cases involving Arizona, California, Utah and Kansas.	The Act provides a fair and expeditious procedure for transfer of guardianship, thus avoiding the need to re-litigate the case, and saving court and family resources.
Transfer	Need transfer of guardianship	NJ	OH	A New Jersey resident had a New Jersey guardian of property and co-guardian of person with niece in Ohio. The individual was transferred to an assisted living facility in Ohio to be closer to family. The New Jersey guardian and the Ohio niece filed concomitant applications in the respective courts, with New Jersey guardian seeking approval to sell the New Jersey home, and the Ohio niece seeking to be bonded and assume full responsibility of person and property in Ohio.	The Act could provide a fair and expeditious procedure to transfer the guardianship of property and the co-guardianship of person from New Jersey to Ohio, with input by interested parties, thus saving family and court resources.
Transfer	Transfer "catch-22" situation	OH	IN	Daughter in Ohio was appointed guardian of her mother by Ohio court. Daughter could no longer care for mother, and	The Act provides a fair and expeditious transfer procedure with specific steps for the transferring

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				mother moved in with son in Indiana. The son cared well for mother but had to answer to sister as guardian so he petitioned for guardianship in Indiana. Indiana court could not consider guardianship petition because there was an existing guardianship in Ohio so it was a Catch-22 situation that engendered hostility between the siblings.	court and the receiving court. These procedures could avoid the need to re-litigate the case, and could provide an opportunity for input by both the son and daughter.
Transfer	Need conservatorship transfer	OR	CA	An incapacitated person was under conservatorship in Oregon. The person was moved to a skilled nursing facility in California. The conservator in Oregon wants to transfer the conservatorship to California, and inquires about the need to dissolve the Oregon conservatorship and then petition for a California conservatorship.	The Act sets out a fair and expeditious procedure for transferring the conservatorship from Oregon to California.
Transfer	Examples of interstate situations	TN	TX	Public guardian in Tennessee had a client who, with court permission, moved with daughter to Texas. Public guardian could not transfer the guardianship from Tennessee to Texas without re-litigating the case.	The Act would provide a fair and expeditious procedure for transferring the guardianship from Tennessee to Texas, thus avoiding the need for re-litigating the case and saving the resources of the family, public guardian, and court.
Transfer	Need for guardianship transfer	TX	NY	A profoundly mentally retarded individual under guardianship of a family member lived in Texas for many years. The family felt it was best to have him in New York near other relatives. Family members petitioned for guardianship in New York.	The Act sets out a fair and expeditious procedure for transferring the guardianship from Texas to New York, without leaving the incapacitated person in legal limbo and without the need and

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				The New York court said it could not exercise jurisdiction over the case until the Texas guardianship was closed.	expense of re-litigating the case.
Transfer	Need for guardianship transfer	VA	AK	Wife was appointed Virginia guardian of her severely disabled husband while she was attending school for several years in Virginia. Both were previously Alaska residents. When she completed her degree in Virginia, she wanted to move her husband back to Alaska and have authority to act as his guardian in Alaska.	The Act sets out a procedure for the fair and expeditious transfer of a guardianship, thus avoiding the need to re-litigate the case and saving family and court resources.
Transfer	Conflict over out-of-state move	VT	FL	A married couple lived in Vermont. The husband had Alzheimer's disease. The wife was appointed as guardian in Vermont. Conflict developed between the wife and the husband's brother. The husband and wife relocated to Florida with her relatives. The brother brought a motion in Vermont court to have the wife replaced as guardian and to return the husband to Vermont.	Under the Act, the wife could bring a procedure for transfer of the guardianship from Vermont to Florida. Vermont would be the transferring court and Florida would be the receiving court. The procedure would provide an opportunity for the husband's brother to object, and his objections would be heard.
Transfer; Recognition	Tri-state contacts and questions	WA	NE; CA	An incapacitated person in Washington moved to California to live with a grandson. The person had a Washington guardian of the estate, and had properties in Washington and Nebraska.	The Act provides an expeditious and fair procedure for transferring guardianship of the estate from Washington to California. The Washington guardian – or eventually the California guardian – could register in Nebraska and be recognized as having authority to manage the Nebraska property.