

The Importance of Interstate and Jurisdictional Issues in Family Law Matters

Barton R. Resnicoff

In today's mobile society, the Family Law practitioner has to be very careful about where to bring a proceeding and when to request a dismissal. The genesis of this goes back to Pennoyer v. Neff, 95 US 365, 24 LEd 565(1877), which held that a state cannot exercise jurisdiction over an individual who is neither a resident of that state nor present within its boundaries when served. Admittedly, the law in this area has evolved to permit a State to exercise long arm jurisdiction when an individual is not served in the jurisdiction based upon contacts and/or conduct within the State, see Hess v. Pawloski, 274 US 352, 47 SCt 632, 71 LEd 1091(1927) and International Shoe Co. v. Washington, 326 US 310, 66 SCt 154, 90 LEd 95(1945), but some conduct or contact with a State is still needed for that State to exercise such jurisdiction, see Hanson v. Denckla, 357 US 235, 78 SCt 1228, 2 LEd2d 1283(1958).

With this as a background, we now deal with these principles as they apply to family law matters. First of all, in divorces, the Courts have broken down divorce jurisdiction to two forms, the first being *in rem* jurisdiction, i.e., that the Court and State have jurisdiction of the marital *res*. When this happens, a Court of that State can dissolve the marriage. The other aspect of jurisdiction is *in personum* jurisdiction, or jurisdiction over the individuals to the marriage. To affect the property rights of an individual in marital litigation, the State issuing the decree must have personal jurisdiction over both, resulting in the development of the concept of divisible divorce.

One of the leading cases on the principle of divisible divorce is Estin v. Estin, 296 NY 308, 73 NE2d 113, *aff'd* 334 US 541, 68 SCt 1213(1948). In that case, the wife obtained a judgment of separation in New York and an award of

alimony. The husband then moved to Nevada and obtained an *ex parte* divorce there. The decree contained a direction that the husband had no obligation to pay alimony to the wife. His relocation was held *bona fide* and New York held that the Nevada divorce was valid to the extent of dissolving the marriage, however, contrary to Nevada law, the New York courts refused to end the wife's rights to alimony, post judgment. The Supreme Court affirmed this, holding that

...full faith and credit...does not mean...that the State of domicile of one of one spouse may...enter a decree that changes every legal incidence of the marital relationship.

* * *

The New York judgment is a property interest of respondent, created by New York...It imposed obligations and granted rights...The property interest...created was an intangible...Jurisdiction over an intangible can indeed only arise from control or power over the persons whose relationships are the source of the rights and obligations [citations omitted].

* * *

...we are aware of no power which the State of domicile of the debtor has to determine the personal rights of the creditor in the intangible unless the creditor...appears in the proceeding.

* * *

The Nevada decree that is said to wipe out respondent's claim for alimony is nothing less than an attempt by Nevada to restrain respondent from asserting her claim under the judgment. That is an attempt to exercise an in personum jurisdiction over a person not before the court. That may not be done. Since Nevada had no power to adjudicate respondent's rights in the New York judgment, New York need not give full faith and credit to that phase of Nevada's judgment.

* * *

The result in this situation is to make the divorce divisible-to give effect to the Nevada decree insofar as it affects marital status and to make it ineffective on the issue of alimony. 334 US 546, 548-9, 68 SCt 1217-8

The next leading case on divisible divorce is Vanderbilt v. Vanderbilt, 1 NY 2d 342, 153 NYS2d 1, 135 NE2d 553(1956) *aff'd* 354 US 416, 77 SCt 1360(1957). In Vanderbilt, the wife had not obtained an alimony award prior to the husband obtaining an *ex parte* divorce which, under Nevada law, ended the possibility of such an award. After the divorce, the wife started an action for separation and alimony. A support order was made and entered. In affirming the support order, the Court of Appeals noted that

...Lynn v. Lynn opinion, 302 NY 193, 200-201, 97 NE2d 748, 751, *supra*, thus:“a divorce may be completely effective to dissolve the marriage and yet completely ineffective to alter certain legal and economic incidents of that marriage”...

* * *

...that part of a foreign...divorce decree which dealt with status had to be given effect in New York as terminating the marriage but was entitled to no effect at all so far as support or other **property rights** were concerned...

* * *

...under the “divisible divorce” doctrine, defendant’s Nevada divorce had **no effect...as to plaintiff’s property rights**. Its sole effect was to end the marriage and it has been given that effect in New York. [Emphasis added] 1 NY2d 350-2, 153 NYS2d 7, 9

Then, the Supreme Court specifically found that the fact that the New York judgment issued subsequent to the *ex parte* Nevada decree was not material, noting

Since the wife was not subject to its jurisdiction, the Nevada divorce court had no power to extinguish any right which she had under the law of New York... 354 US 418, 77 SCt 1362

In Anello v. Anello, 22 AD2d 694, 253 NYS2d 759(2d Dept., 1964), the parties purchased a house in New York as tenants by the entirety¹ during their marriage. The husband then obtained an *ex parte* Nevada divorce and commenced

¹ As Husband and Wife with the right of survivorship.

a partition action to force the sale of the property. In affirming a dismissal under CPLR 3211(a)(7)², the Court held that

...the foreign divorce decree, although valid to dissolve the marital status, nevertheless, the decree...was ineffective to transform the tenancy by the entirety into a tenancy in common.

* * * *

Since the ownership by the plaintiff husband and the defendant wife as tenants by the entirety remained intact despite the severance of their marital status by the foreign divorce decree, the husband is barred from maintaining this action... 253 NYS2d 760, 761

The clear import is that the principle of divisible divorce means that a decree issued with only in rem jurisdiction should not affect the property rights of the parties to this marriage in another jurisdiction.

This can be of great assistance when it may be in your client's interest to litigate the property rights in a difference jurisdiction. The starting point on residency in divorce matters is DRL §230, which provides that

Required residence of parties

An action to annul a marriage, or to declare the nullity of a void marriage, or for divorce or separation may be maintained only when:

1. The parties were married in the state and either party is a resident thereof when the action is commenced and has been a resident for a continuous period of one year immediately preceding, or
2. The parties have resided in this state as husband and wife and either party is a resident thereof when the action is commenced and has been a resident for a continuous period of one year immediately preceding, or
3. The cause occurred in the state and either party has been a resident thereof for a continuous period of at least one year immediately preceding the commencement of the action, or
4. The cause occurred in the state and both parties are residents thereof at the time of the commencement of the action, or

² Failure to state a cause of action.

5. Either party has been a resident of the state for a continuous period of at least two years immediately preceding the commencement of the action.

I am aware that the Court rules and concerning the Findings of Fact, Conclusions of Law, 22 NYCRR §202.50(b), Appendix B, refers to satisfying one of these requirements as jurisdictional, see ¶FOURTEENTH, but a review of the case law indicates otherwise, see Scheinkman, Practice Commentary, McKinney's Cons.Laws of N.Y., Book 14, DRL §230, C230:1 it is noted that

...in 1976, the Court of Appeals, in Lacks v. Lacks, 41 NY2d 71, 390 NYS2d 875, 359 NE2d 384, reargument denied, 41 NY2d 901, 393 NYS2d 1028, 362 NE2d 640, did away with the concept that compliance with DRL §230 was fundamental to the court's subject matter jurisdiction. The Court held that the durational residence requirements contained in DRL §230 were "merely substantive elements" of the matrimonial cause of action and not a limitation upon the subject matter jurisdiction of the matrimonial courts.

*

*

*

In the Lacks decision, the Court of Appeals also observed that the durational residence requirements imposed by DRL §230 were enacted as part of the 1966 Divorce Reform Act. The Act liberalized the grounds for divorce and DRL §230 was added as part of that legislative package in order to assure that New York, with its expanded grounds for divorce, would not become a "divorce mill". Evidently, the Legislature was concerned that spouses with no real connection to New York might flock here for the sole purpose of obtaining matrimonial relief unavailable in the states that had substantial interests in the marital relationships. To deter such conduct, which raises the prospect that default judgments could be improperly rendered against non-residents on a wholesale basis, the Legislature has required, in DRL § 230, that there be a showing that the parties, or at least one of them, have sufficient roots in New York or that sufficient conduct occurred in New York as to warrant New York in exercising its jurisdiction and applying its law to the parties.

Of course, at this time, with New York being the only state that requires fault based divorce, the practicality is that no one is really running to New York to

get divorced, but that is merely an aside. The practice commentaries continues further to note, see Scheinkman, Practice Commentary, McKinney's Cons.Laws of N.Y., Book 14, DRL §230, C230:3, that

If a defendant “dwells” here with a fair degree of continuity and permanence(*cf.* DRL §231), it would be fair to regard the defendant as a resident, for purposes of DRL §230, though his or her domicile might technically be elsewhere. In this regard, it is proper to look to whether the court, under the circumstances, has personal jurisdiction over the defendant. The sole purpose of DRL §230 is to assure that New York has a reasonable enough interest in the marriage to warrant its courts to entertain an action to dissolve it and adjudicate the rights of the parties. See Lacks v. Lacks, 41 NY2d 71, 390 NYS2d 875, 359 NE2d 384, reargument denied, 41 NY2d 901, 393 NYS2d 1028, 362 NE2d 640 (1977). If the defendant has a sufficient nexus with New York as to permit the New York courts to determine his or her personal and property rights, the continued physical residence of the defendant in the State should suffice for DRL §230 purposes...

The leading case on the significance of DRL §230 is Lacks v. Lacks, 41 NY2d 71, 390 NYS2d 875, 359 NE2d 384(1976). That case primarily concerned itself if the requirements of DRL §230 were jurisdictional in nature, or merely a part of proving a cause of action for, *inter alia*, divorce. A review of that decision starts off by noting that

The requirements of section 230, however, go only to the substance of the divorce cause of action, not to the competence of the court to adjudicate the cause. Hence, a divorce judgment granted in the absence of one of the specified connections with the State, even if erroneously determined as a matter of law or fact, is not subject to vacatur under CPLR 5015(subd. (a), par. 4). 73, 876, 385

* * *

...this court has held that the 1962 revised article VI of the State Constitution expanded the Supreme Court's jurisdiction to include ‘any proceeding not recognized at common law’(Kagen v. Kagen, 21 NY2d 532, 536--537, 289 NYS2d 195, 198, 236 NE2d 475, 478, *supra*; Matter of Seitz v. Drogheo, 21 NY2d 181, 185-186, 287

NYS2d 29, 31, 234 NE2d 209, 211, *supra*). Matrimonial actions were not known to the common-law courts, but were instead a creation of the ecclesiastical courts(Langerman v. Langerman, 303 NY 465, 469-470, 104 NE2d 857, 858-859, *supra*). It would appear, therefore, that by virtue of the constitutional amendment, the Supreme Court is now vested constitutionally with ‘subject matter jurisdiction’ in matrimonial cases, assuming that such an assertion is necessary to give the Supreme Court a competence in matrimonial causes equal to that in common-law or equity causes. 41 NY2d 73, 76-7, 390 NYS2d 876, 879, 359 NE2d 385, 388

Just so you are aware, in Mattwell v. Mattwell, 194 AD2d 715, 600 NYS2d 98(2d Dept., 1993), where an *ex parte* divorce was granted to the husband in Florida; and the wife was only a resident of New York, at the husband’s request, equitable distributed was awarded subsequently, with the Court noting that

...the former husband claimed an interest in New York marital property. In accordance with the plain language of the governing statutes(see, Domestic Relations Law §236[B][2], [5], [9]), and in accordance with our precedent, he may therefore “commence an action for equitable distribution of property following entry of[the *ex parte*]foreign judgment of divorce”(Peterson v. Goldberg, *supra* at 262, 585 NYS2d 439). 194 AD2d 717, 600 NYS2d 100

Jurisdictional and choice of law issues on custody, support and maintenance are governed by uniform acts, such as the Uniform Interstate Family Support Act(UIFSA) and the Uniform Child Custody Jurisdiction and Enforcement Act(UCCJEA). The jurisdictional aspects of each should be understood as it may greatly affect the rights of your client and where these issues are litigated. There are rules concerning initial jurisdiction consistent the above rules involving in personum jurisdiction, see FCA §580-201³, which governs Jurisdiction over non-residents in support cases

Bases for jurisdiction over nonresident

In a proceeding to establish, enforce, or modify a support order or to determine parentage, the tribunal of this state may exercise personal

³ These sections are cited to New York’s version of UIFSA.

jurisdiction over a nonresident individual or the individual's guardian or conservator if:

- (1) the individual is personally served with a summons and petition within this state;
- (2) the individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;
- (3) the individual resided with the child in this state;
- (4) the individual resided in this state and provided prenatal expenses or support for the child;
- (5) the child resides in this state as a result of the acts or directives of the individual;
- (6) the individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;
- (7) the individual asserted parentage in the putative father registry maintained in this state by the department of social services; or
- (8) there is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

Once a State has obtained jurisdiction under UIFSA, that State's Courts have exclusive continuing jurisdiction to modify as long as either party or the child(ren) continues to reside in that State, see FCA §580-205⁴; no other State can modify the Order; another State can modify once everyone has left the issuing State; but then the individual requesting the modification responding must litigate in the other party's State; see FCA §580-611.

One of the leading cases in New York under UIFSA and its jurisdiction aspects is Matter of Spencer v. Spencer, 10 NY3d 60, 853 NYS2d 274, 882 NE2d 886(2008), where New York was held to be prohibited from issuing a new child support Order once the Order of an other state was terminated based upon emancipation, even though the child resided in New York, holding

...the father always has lived in Connecticut, the state that issued the child support order. Under both statutes, because the father continues

⁴ Conversely, once a child support Order has been entered in another State, as long as either of the parties(father or mother)or the child remains in that State, New York cannot modify that Order, only enforce it.

to reside in the issuing state, Connecticut retains continuing, exclusive jurisdiction of its child support order and New York does not have subject matter jurisdiction to modify the Connecticut order. The only issue, then, is whether a petition filed after the termination of the initial child support obligation because the child reached the issuing state's age of majority seeks a "modification" of the issuing state's order. If so, under the provisions of both statutes, New York lacks subject matter jurisdiction. 10 NY3d 66, 853 NYS2d 277-8, 882 NE2d 889-890

As an aside, once a State has issued a spousal support Order, only that State can modify that Order, even if none of the parties continue to reside in that State; or even if they both reside in the same State, but not the issuing State, see FCA §580-205(f).

Jurisdiction of the initial custody case is primarily based upon the concept of "home state," i.e., where the child has resided for a continuous six(6)month period, at the time of commencement, with certain exceptions, see DRL §76⁵. However, similar to UIFSA, the initial issuing state has continuing exclusive jurisdiction to modify unless no one continues to reside there or the Courts of that State determine that another State would be a more appropriate jurisdiction to deal with the issues, see DRL §§76-a, 76-b; with the exception of temporary emergency jurisdiction, see DRL §76-c. Again, these jurisdiction rules should be viewed in a context as to the best place for your client to litigate.

On the issue of continuing exclusive jurisdiction, the starting point is DRL §76-a(1), which provides that

Exclusive, continuing jurisdiction

1. Except as otherwise provided in section seventy-six-c of this title, a court of this state which has made a child custody determination consistent with section seventy-six or seventy-six-b of this title has exclusive, continuing jurisdiction over the determination until:

⁵ These sections are cited to New York's version of the UCCJEA.

- (a) a court of this state determines that neither the child, the child and one parent, nor the child and a person acting as a parent have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child's care, protection, training, and personal relationships; or
- (b) a court of this state or a court of another state determines that the child, the child's parents, and any person acting as a parent do not presently reside in this state.

Going further, DRL §76-b provides that

Except as otherwise provided in section seventy-six-c of this title, a court of this state may not modify a child custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under paragraph (a) or (b) of subdivision one of section seventy-six of this title and:

1. The court of the other state determines it no longer has exclusive, continuing jurisdiction under section seventy-six-a of this title or that a court of this state would be a more convenient forum under section seventy-six-f of this title; or
2. A court of this state or a court of the other state determines that the child, the child's parents, and any person acting as a parent do not presently reside in the other state.

This limitation of jurisdiction to modify a custody Order issued in another state is confirmed in Capobianco v. Willis, 71 AD2d 834, 567 NYS2d 770(2d Dept., 1991), when after a 1987 Kansas divorce decree, the mother and child relocated to New York, but as the father continued to live in Kansas, which refused to decline jurisdiction, the Court held that New York was **required** to dismiss the mother's modification petition.

Further, the Federal Parental Kidnapping Prevention Act(PKPA)(28 USC §1738)confirms this by virtue of the Supremacy Clause of the U.S. Constitution, see Matter of Michael P. v. Dianna G., 156 AD2d 59, 64-5, 553 NYS 2d 689, *lv. den.* 75 NY2d 1003, 557 NYS2d 308, 556 NE2d 1115. In fact, the UCCJA was

amended to the UCCJEA by the Uniform Law Commission to reflect the provisions of the PKPA.

The specific provisions of the PKPA, USCA §1738A, provides that

Full Faith and Credit Given to Child Custody Determinations

(a) The appropriate authorities of every State shall enforce according to its terms, and shall not modify...any child custody determination made consistent with the provisions of this section by a court of another State.

(c) A child custody determination made by a court of a State is consistent with the provisions of this section only if

(1) such court has jurisdiction under the law of such State; and

(E) the court has continuing jurisdiction pursuant to section (d) of this section.

(d) the jurisdiction of a court of a State which has made a child custody determination consistently with the provisions of this section...and such State remains the residence of the child or of any contestant.

(g) A court of a State shall not exercise jurisdiction in any proceeding for a custody determination commenced during the pendency of a proceeding in a court of another State where such court of that other State is exercising jurisdiction...

As was held in Matter of Recard v. Polite, 21 AD3d 379, 799 NYS2d 578(2d Dept., 2005)

Since the initial child custody determination in this case was made by the Family Court, Kings County...the court erred in summarily dismissing on jurisdictional grounds the mother's most recent petition to modify a prior order of custody.... 21 AD3d 379-380, 799 NYS2d 579

See also Bjornson v. Bjornson, 20 AD3d 497, 799 NYS2d 250(2d Dept., 2005)

A child custody proceeding is defined in the UCCJEA as, among other things, a proceeding where custody is at issue, including an action for a divorce(see Domestic Relations Law §75-a[4]). Here, the father's motion was made in the matrimonial action in September 2004, after the effective date of the UCCJEA.

*

*

*

Here, it was undisputed that the child custody determination made in the judgment of divorce was consistent with the UCCJEA....Thus, the Supreme Court has jurisdiction over the matter under the UCCJEA. 20 AD3d 499, 799 NYS2d 251-2

Also reversing a dismissal and denying jurisdiction under the UCCJEA is In re Blerim M. v. Racquel M. , 41 AD3d 306, 839 NYS2d 57(1st Dept., 2007), which noted that

...visitation periods can, in appropriate circumstances, be a factor in determining whether a child continues to have a significant connection with New York(Vernon v. Vernon, 100 NY2d 960, 972, 768 NYS2d 719, 800 NE2d 1085[2003]).

...Should respondent wish to call witnesses from outside New York, such witnesses can testify by alternate means(§75-j, §75-k). 41 AD3d 311, 839 NYS2d 62

There may be confusion because the UCCJEA, which was enacted by L.2001, Ch.386, which repealed the UCCJA in New York, all effective as of April 28, 2002, are different in this regard. The provisions of the UCCJA were inconsistent with the PKPA of 1980, and more specifically 28 USC §1738A(d), and one of the reasons was the issue of continuing jurisdiction.

The Court of Appeals, in Vernon v. Vernon, 100 NY2d 960, 768 NYS2d 719, 800 NE2d 1085(2003), dealt with these issues, holding that

Contrary to the mother's contention, the provision in subsection(d)of the PKPA that "the requirement of subsection (c)(1) of this section continues to be met" does not mean that subsection (c)(2) must also be met. If that had been the intention of the drafters, they could have easily stated it. The conjunctive "and" at the end of subsection (c)(1), after the semicolon, does not serve to conflate the two separate subsections. This interpretation, that subsections (c)(1) and (c)(2) must be read together, is not only contrary to the plain meaning of subsection (d), but also completely at odds with the purpose of the PKPA. According to the mother, a state that has made an initial custody dispute loses subject matter jurisdiction over the case once

another state has become the child's "home State," which occurs in six months. As her argument goes, the section to look to is subsection (c)(2)(B) of the PKPA, which preempts section 75-d(1)(b) of the Domestic Relations Law. The loss of jurisdiction would be *per se*. The court is not to engage in an analysis as to whether, under the circumstances, the court should cede jurisdiction to the other state. Such interpretation would essentially encourage "unilateral removals of children undertaken to obtain [favorable] custody and visitation" (Pub L 96-611 §7[c][6])--the very antithesis of the statutory purpose. On the other hand, section 75-d(1)(b) of the Domestic Relations Law calls for a determination of whether the exercise of jurisdiction is appropriate.

*

*

*

...the mother argues that the significant connection test of Domestic Relations Law §75-d(1)(b) requires that the child and parents or the child and one contestant have maximum rather than minimum contacts with this state. We stated in Vanneck⁶:

"Particularly relevant to the jurisdictional determination is whether the forum in which the litigation is to proceed has 'optimum access to relevant evidence' (Prefatory Note of Commissioners on Uniform State Laws, 9 ULA [Master Ed], §3, p. 124). Maximum rather than minimum contacts with the State are required (*id.*). The general language of this subdivision permits a flexible approach to various fact patterns. This imprecision, however, must not destroy [800 N.E.2d 1092] the legislative design 'to limit jurisdiction rather than to proliferate it' (*id.*)" (49 NY2d at 610, 427 NYS2d 735, 404 NE2d 1278).

The Appellate Division found that the child had a significant connection to New York and that substantial evidence concerning her present and future welfare existed in New York. The Court stated:

"Since the child was born here, the parties were married and divorced here, the father has continued to reside here, and the child has visited him here, the substantial connection test is met. In addition, the court heard testimony from the father and his family at the hearing, showing that substantial evidence exists within New York regarding the issue of the child's future care. Thus, New York properly asserted subject

⁶ Vanneck v. Vanneck, 49 NY2d 602, 427 NYS2d 735, 404 NE2d 1278 (1980).

matter jurisdiction to determine this custody dispute”(296 AD2d 186, 191-192, 746 NYS2d 284[2002][citations omitted]).

More importantly, the evidence supports the finding of a significant connection. While Vanneck emphasizes the importance of a state’s durable contacts with a child, the case contemplates a flexible approach in determining whether the test is satisfied.

It is undisputed that the father has a significant connection to New York. The mother argues that the child has no significant connection to New York because she has been living in Wyoming since January 1993. The child’s significant connection to Wyoming, however, does not diminish her significant connection to New York as well. She is a New Yorker by birth, and lived in New York for about a year until the divorce, when the mother relocated with her to Louisiana, then Nevada, and then Wyoming. New York is the father’s home as well as the home of the child’s half sister and other relatives. The child has lived in the father’s home during summers and holidays and has spent time with her relatives in New York. In addition, New York courts have been in the child’s life since she was a toddler, making decisions about what is in her best interest. New York has been a significant part of her life, and would have been even more significant but for the mother’s contumacious behavior over the past decade. 100 NY2d 971-2, 768 NYS2d 725-6, 800 NE2d 1090

In interstate custody cases, there is another issue that can be raised, under DRL §76-f(1), for a State to decline to exercise continuing jurisdiction, of inconvenient forum, as the statute provides that

A court of this state which has jurisdiction under this article to make a child custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon motion of a party, the child or the law guardian, or upon the court's own motion, or request of another court.

Admittedly, the issue of *forum non conveniens*, and on this issue, see Siegel, New York Practice, 3d Ed., §28, p. 29 notes that

The doctrine of *forum non conveniens*, or inconvenient forum...is a body of rules designed to keep out of the New York courts cases in

which jurisdiction technically exists...but in which there are no significant New York contacts to warrant entertainment of the case.

At this point, another issue is what consideration one State should give to the decisions of a different State between the same parties. I know that this can come up when a dissolution of marriage is issued in New York on fault⁷, then property rights are sought to be litigated elsewhere. Because of this, New York Courts have found that fault, except egregious fault or economic fault, is not a factor on financial issues, contrary to some other States. Under those circumstances, consistent with standard rules of Conflicts of Law, as was held in Watts v. Swiss Bank Corp., 27 NY2d 270, 317 NYS2d 315, 268 NE2d 739(1970)

...the law of the rendering jurisdiction, insofar as it limits the effect of its own judgments, would also limit elsewhere the preclusive effect of the judgment and the definition of the parties bound. 27 NY2d 275, 317 NYS2d 318, 268 NE2d 742

This is merely a tip of the iceberg of interstate or international issues; in fact, the General Practice, Solo & Small Firm Division of the American Bar Association printed in its March, 2008 Law Trends & News Practice Area Newsletter, Vol. 4, No. 2, an article on the Globalization of Family Law by David Starks.

⁷ New York has no true no fault provision; i.e., all divorces are issued based upon either adultery, cruel and inhuman treatment or abandonment, see DRL §170(1), (2) and (3). While there are provisions for a “conversion divorce,” DRL §170(5) or (6), it requires obtaining either a decree of separation or having a separation agreement and waiting a year.