

A (Small) Selection of NYS UCCJEA cases

(exercise caution if citing UCCJA cases, prior to April 2002, which may no longer be relevant)

Samah DD. V. Mohammed EE., --- N.Y.S.3d ----, 185 A.D.3d 1241, 2020 WL 4006164, 2020 N.Y. Slip Op. 03958 (3rd Dep't 2020) (NY court rejects the father's contention that because abuse allegations occurred in AZ the court in NY lacks jurisdiction.)

Paul JJ. v. Heather JJ., 184 A.D.3d 956, 126 N.Y.S.3d 547, 2020 N.Y. Slip Op. 03434 (3rd Dep't 2020) (UCCJEA provides for NY courts to modify an out-of-state order, but does not prescribe the standard to use in a modification proceeding. Look at the ordinary NY standard for modification of a custody and visitation order.)

Coia v. Saavedra, 184 A.D.3d 1127, 126 N.Y.S.3d 284, 2020 N.Y. Slip Op. 03325 (4th Dep't 2020) (CA is the appropriate forum for resolving custody, as the only connection to NY is the father. The NY court should not dismiss the father's proceeding, it should be stayed pending the commencement of proceedings in CA.)

Mark B. Tameka D., 183 A.D.3d 1038, 124 N.Y.S.3d 420, 2020 N.Y. Slip Op. 02833 (3rd Dep't 2020) (The court consider 4 factors of subject matter jurisdiction to conclude that NY was the proper forum. The child did not have a home state, but her father had significant connections to NY.)

Matter of Parsons v. Cromedy, 183 A.D.3d 745, 121 N.Y.S.3d 664, 2020 N.Y. App. Div. LEXIS 2888, 2020 Slip Op. (2nd Dep't 2020) (NY should dismiss the petition for lack of jurisdiction. The child moved to SC sixteen months before the proceeding and retains no connection to NY.)

Matter of Jennifer R. v. Lauren B., 68 Misc. 3d 225, 126 N.Y.S.3d 324, 2020 N.Y. Misc. LEXIS 1533, 2020 NY Slip Op. 20094 (Fam. Ct. Kings Ct'y 2020) (Mother requested an immediate transfer of sole custody with her in NJ in part based upon fear that her ex-wife is placing the child at risk of COVID-19 in NY. The court denied this motion as the mother did not follow their condition precedent of mediation and the allegations against ex-wife are insufficient to warrant change in custody and visitation.)

Defrank v. Wolf, 179 A.D.3d 676, 117 N.Y.S.3d 303, 2020 N.Y. Slip Op. 00126 (2nd Dep't 2020) (A child living in NY for more than six months with a grandparent does not qualify NY as a home state, the child has no home state. NY can claim jurisdiction if a parent or child has a significant connection to the state, which they do.)

Cody RR. v. Alana SS., 176 A.D.3d 1372, 112 N.Y.S.3d 782, 2019 N.Y. Slip Op. 07471 (3rd Dep't 2019) (Mother brought a limited notice of appearance objecting to jurisdiction, this is not the proper vehicle to challenge jurisdiction. She needs to make a motion on notice to the father so he has an opportunity to respond.)

Helmeyer v. Setzer, 173 A.D.3d 740, 105 N.Y.S.3d 541, 2019 N.Y. Slip Op. 04383 (2nd Dep't 2019) (A significant connection with one state does not diminish the significant connection with another state. The mother took the child out of NY without father's knowledge or permission and he promptly filed an action. NY is not an inconvenient forum.)

Nemes v. Tutino, 173 A.D.3d 16, 101 N.Y.S.3d 538, 2019 N.Y. Slip Op. 03236 (4th Dep't 2019) (A party cannot waive their objection to a court's subject matter jurisdiction.)

Goode v. Sandoval, 171 A.D.3d 1059, 98 N.Y.S.3d 332, 2019 N.Y. Slip Op. 02872 (2nd Dep't 2019) (The NY court failed to delineate the factors it considered when determining NY was an inconvenient forum, remanded for the court to delineate the factors to reach a jurisdiction conclusion.)

Alger v. Jacobs, 169 A.D.3d 1415, 93 N.Y.S.3d 492, 2019 N.Y. Slip Op. 00766 (4th Dep't 2019) (Father injuring mother to the point she is hospitalized in an intensive care unit for several days is sufficient to establish TEJ for NY to grant mother sole custody.)

Montanez v. Tompkinson, 167 A.D.3d 616, 90 N.Y.S.3d 62, 2018 N.Y. Slip Op. 08305 (2nd Dep't 2018) (NY family court erred in declining jurisdiction without being assured that the HI court that all of its prior orders issued without subject matter jurisdiction were vacated. HI was not aware of the pending NY proceedings when they decided to proceed with custody matters.)

Hiles v. Hiles, 165 A.D.3d 1394, 85 N.Y.S.3d 267, 2018 N.Y. Slip Op. 07004 (3rd Dep't 2018) (NY and MS did not properly communicate on the record. It is unknown if the states rendered the necessary determination and the cases is remanded for them to do so.)

Paul v. Paul, 161 A.D.3d 888, 77 N.Y.S.3d 88, 2018 N.Y. Slip Op. 03377 (2nd Dep't 2018) (NY invoked TEJ when father received children for visitation that were in poor health. Mother did not seek to adjourn this motion or submit any opposition to the motion. The contention that the court erred in invoking TEJ and finding NY as the home state is without merit.)

Beyer v. Hofman, 161 A.D.3d 1536, 75 N.Y.S.3d 758, 2018 N.Y. Slip Op. 03259 (4th Dep't 2018) (The court has to give the parties the opportunity to present facts and legal arguments before a decision on jurisdiction is made. The NY court erred by not involving the parties in the interstate communication or creating a record of this communication.)

Korisa DD. On behalf of Morgan DD v. Michelle EE., 156 A.D.3d 1140, 67 N.Y.S.3d 700, 2017 N.Y. Slip Op. 08909 (3rd Dep't 2017) (When determining jurisdiction for sibling visitation, the court should look at the home state of both children. The older child's home state is NY and the younger child retains significant contacts with NY because of a joint custody arrangement.)

In re Milani X., 149 A.D.3d 1225, 51 N.Y.S.3d 675, 2017 N.Y. Slip Op. 02714, (3rd Dep't 2017) (When a child lacks a home state at the start of a neglect proceeding, the UCCJEA considers where the child or parents have a significant connection and where evidence is available to decide jurisdiction.)

Rahn v. Rahn, 53 Misc.3d 1213(A), 50 N.Y.S.3d 28 (Table), 2016 WL 6781051, 2016 N.Y. Slip Op. 51638(U) (Sup. Ct. Monroe C'ty. 2016) (The presence of extended family in NY alone is not enough to determine the children have a significant connection to NY.)

Sheryl F. v. Joseph F., 51 Misc.3d 539, 28 N.Y.S.3d 844, 2016 N.Y. Slip Op. 26075 (Fam. Ct. Kings C'ty. 2016) (NJ retained exclusive, continuing jurisdiction since the father remains there, however, NJ declined to retain jurisdiction as the children have lived in NY for over 10 years and NJ would be an inconvenient forum.)

Lewis v. Martin, 134 A.D.3d 117921, N.Y.S.3d 430, 2015 N.Y. Slip Op. 08879 (3rd Dep't 2015) (FL lost its jurisdiction as mother, father, and child were all absent from FL for a period of at least 2 years and this is not viewed as a temporary absence. NY is the correct venue.)

Blau v. Blau, 47 Misc.3d 1210(A), 15 N.Y.S.3d 710 (Table), 2015 WL 17377782015, N.Y. Slip Op. 50541(U), (Fam. Ct. Kings C'ty. 2015) (NY can still be considered the home state even when the child has not lived in NY for six consecutive months if the times away were a temporary absence.)

Bresslor v. Arciniega, 123 A.D.3d 1413, 1 N.Y.S.3d 413, 2014 N.Y. Slip Op. 09084 (3rd Dep't 2014) (A person acting as a parent for purposes of the UCCJEA is a person that (a) has physical custody of the child or had physical custody for a period of six consecutive months within one year of the commencement of the proceedings and (b) has been awarded legal custody by a court or claims a right to legal custody under state law.)

Mojica v. Denson, 120 A.D.3d 691, 991 N.Y.S.2d 443, 2014 N.Y. Slip Op. 05882 (2nd Dep't 2014) (NY can keep jurisdiction as long as the child retains a significant connection to the state and must consider the relevant factors before determining this is an inconvenient forum.)

Sara Ashton Mck. v. Samuel Bode M., 111 A.D.3d 474, 974 N.Y.S.2d 434, 2013 N.Y. Slip Op. 07554 (1st Dep't 2013) (CA doesn't have jurisdiction substantially in conformity because the father filed the custody proceeding before the child was born. Mother relocating to NY during her pregnancy does not rise to unjustifiable conduct or constitute a reason to decline jurisdiction based on inconvenient forum.)

Valone v. Valone, 41 Misc.3d 797, 975 N.Y.S.2d 540, 2013 N.Y. Slip Op. 23320 (Sup. Ct. Monroe C'ty. 2013) (In order for a court to exercise TEJ there must be imminent risk of physical or emotional danger.)

Balde v. Barry, 108 A.D.3d 322, 969 N.Y.S.2d 508, 2013 N.Y. Slip Op. 05204 (2nd Dep't 2013) (NY is an inconvenient forum because children were enrolled in school in GA, that is their home state and have connections with extended family, evidence is more readily available)

Ruth L v. Clemese Theresa J., 104 A.D.3d 554, 961 N.Y.S.2d 413, 2013 N.Y. Slip Op. 01903 (1st Dep't 2013) (Absence from a state because a party was attempting to prevent the other from obtaining custody is considered a temporary absence that does not interrupt the six month residency requirement.)

Gottlieb v. Gottlieb, 103 A.D.3d 593, 960 N.Y.S.2d 101, 2013 N.Y. Slip Op. 01330 (1st Dep't 2013) (Determining the home state is of paramount importance and can be determined by taking into consideration length of time spent in each state and location of relevant witnesses, as well as the financial circumstances of each party.)

Agueda v. Rodriguez, 103 A.D. 3d 716, 960 N.Y.S.2d 142, 2013 N.Y. Slip Op. 00910 (2nd Dep't 2013) (Child had not resided in NY for six months so NY lacks jurisdiction.)

Hassan v. Silva, 100 A.D.3d 753, 953 N.Y.S.2d 677, 2012 N.Y. Slip Op. 07668 (2nd Dep't 2012) (Factors to determine the most convenient forum include length of time the child has resided outside the state, the distance between the court in this state and the court in the state or country that would assume jurisdiction, the nature and location of the evidence required to resolve the pending litigation, the ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence, and the familiarity of the court of each state with the facts and issues in the pending litigation.)

Joy v. Kutzuk, 99 A.D.3d 1049, 952 N.Y.S.2d 644, 2012 N.Y. Slip Op. 07002 (3rd Dep't 2012) (A parent may not wrongfully remove or withhold a child to establish a new home state, any time spent under these circumstances will not be counted toward establishing a home state. The relevant facts and witness pertaining to custody are located in WA and the case will stay in that state.)

In re Bridget Y., 92 A.D.3d 77, 936 N.Y.S.2d 800, 2011 N.Y. Slip Op. 09687 (4th Dep't 2011) (Family Court barred from exercising jurisdiction except for emergency jurisdiction in neglect proceeding where custody proceeding had already been commenced in home state NM)

Hearne v. Hearne, 61 A.D.3d 758, 878 N.Y.S.2d 81, 2009 N.Y. Slip Op. 02998 (2nd Dep't 2009) (unsubstantiated allegations of abuse insufficient to warrant Family Court's exercising TEJ)

Felty v. Felty, 882 N.Y.S.2d 504, 2009 N.Y. Slip Op. 05859 (2nd Dep't 2009) (temporary absence is not enough to defeat home state jurisdiction)

Christine L. v. Jason L., 23 Misc.3d 1039, 874 N.Y.S.2d 794, 2009 N.Y. Slip Op. 29089 (Fam.Ct. Clinton C'ty. 2009) (the determination of home state is not limited to the commencement date of the action, but also where a state qualified as the home state at any time during the six months before commencement)

Woods v. Woods, 56 A.D.3d 789, 868 N.Y.S.2d 272, 2008 N.Y. Slip Op. 09410 (2nd Dep't 2008) (dismissal of modification proceeding reversed and remanded for Family Court's failure to communicate with court of competing jurisdiction)

Navarrete v. Wyatt, 52 A.D.3d 836, 861 N.Y.S.2d 393, 2008 N.Y. Slip Op. 05935 (2nd Dep't 2008) (it is entirely the prerogative of the home state to decline jurisdiction)

In re Michael McC, 48 A.D.3d 91, 848 N.Y.S.2d 147, 2007 N.Y. Slip Op. 10507 (1st Dep't 2007) (although a proceeding was pending in an Italian court, Family Court could exercise jurisdiction because the Italian court did not have jurisdiction "substantially in conformity" with the UCCJEA)

Andrews v. Catanzano, 44 A.D.3d 1109, 844 N.Y.S.2d 147, 2007 N.Y. Slip Op. 07782 (3rd Dep't 2007) (Court must permit parties to participate in communication with court of competing jurisdiction or afford them an opportunity to present facts and arguments on the jurisdictional question)

Scott v. Jackson, 38 A.D.3d 788, 832 N.Y.S.2d 611, 2007 N.Y. Slip Op. 02566 (2nd Dep't 2007) (order of protection does not constitute a child custody determination where it does not actually include provisions for custody or visitation)

Ciccone v. Pugh, 42 A.D.3d 767, 840 N.Y.S.2d 636, 2007 N.Y. Slip Op. 06136 (3rd Dep't 2007) (NY had home state priority over PA where the child primarily resided in NY and had periodic extended visits in PA, but never resided in PA for any consecutive 6 month period)

Grace G. v. Beeno G., 12 Misc.3d 1184(A), 824 N.Y.S.2d 763 (Table), 2006 WL 2037249, 2006 N.Y. Slip Op. 51443(U) (Fam.Ct. NY C'ty 2006) (unreported) (NY declines jurisdiction where the only basis for jurisdiction is the mother's unjustifiable conduct, which was also a consideration in determining whether NY was a more convenient forum)

Matter of Kali-Ann E., 27 A.D.3d 796, 810 N.Y.S.2d 251, 2006 N.Y. Slip Op. 01421 (3rd Dep't 2006) (UCCJEA provides for continuing jurisdiction in a neglect proceeding even where the alleged acts occurred in another state)

D.M. v. H.M., 10 Misc.3d 1073(A), 814 N.Y.S.2d 890 (Table), 2006 WL 140402, 2006 N.Y. Slip Op. 50053(U) (Fam.Ct. Nassau C'ty 2006) (unreported) (motion to dismiss a default order of protection which included custody provisions denied where court found basis for jurisdiction under both FCA Article 8 and the UCCJEA TEJ provisions)

Recard v. Polite, 21 A.D.3d 379, 799 N.Y.S.2d 578, 2005 N.Y. Slip Op. 06222 (2nd Dep't 2005) (reversed and remanded dismissal of custody petition pursuant to UCCJEA for court's failure to determine whether NY had exclusive jurisdiction to modify its prior custody order or any basis for temporary emergency jurisdiction)

Williams v. Taylor, 20 A.D.3d 484, 798 N.Y.S.2d 515, 2005 N.Y. Slip Op. 05916 (2nd Dep't 2005) (reversed and remanded dismissal of custody petition pursuant to UCCJEA where trial court only had knowledge that a custody proceeding "may have commenced" in another jurisdiction and failed to communicate with the competing court)

Greenidge v. Greenidge, 16 A.D.3d 583, 792 N.Y.S.2d 165 (2nd Dep't 2005) (although NY court lacked initial jurisdiction, matter remitted for a determination whether NY had continuing exclusive jurisdiction to modify its prior custody order)

King v. King, 15 A.D.3d 999, 790 N.Y.S.2d 339, 2005 N.Y. Slip Op. 00894 (4th Dep't 2005) (NY no longer had significant connections and substantial evidence to retain exclusive continuing jurisdiction)

Noel D. v. Gladys D., 6 Misc.3d 1017(A), 800 N.Y.S.2d 351 (Table), 2005 WL 263963, 2005 N.Y. Slip Op. 50092(U) (Fam.Ct. Queens Ct'y 2005) (unreported) (Title 2 of the UCCJEA authorizes a NY court to modify temporary orders by another state when a child is present in NY and it is necessary to protect that child, a sibling, or that child's parent. To do this a NY court is required to communicate with the other state judge in order to attempt to resolve the emergency and protect the safety of all parties.)

EB v. EFB, 7 Misc.3d 423, 793 N.Y.S.2d 863, 2005 N.Y. Slip Op. 25048 (Sup.Ct. Kings C'ty 2005) (NY retains continuing exclusive jurisdiction despite custodial parent and child's move to Norway where the move was clearly intended to be temporary with the goal of a return to NY and the noncustodial parent enjoyed extended visitation time with the child in NY)

Karen W. v. Roger S., 8 Misc.3d 285, 793 N.Y.S.2d 693, 2004 N.Y. Slip Op. 24563 (Fam.Ct. Dutchess C'ty 2004) (UCCJEA applies to international jurisdictional disputes and is not unconstitutional as applied to a resident of another country)

Allan F. v. Elizabeth F., 6 Misc.3d 1024(A), 800 N.Y.S.2d 341 (Table), 2004 WL 3196951, 2004 N.Y. Slip Op. 51822(U) (Fam.Ct. Richmond C'ty 2004) (unreported) (Family Court declines jurisdiction as an inconvenient forum, in part due to allegations of domestic violence)

Stocker v. Sheehan, 13 A.D.3d 1, 786 N.Y.S.2d 126, 2004 N.Y. Slip Op. 07647 (1st Dep't 2004) (originating state, not modification state, must determine originating state no longer has exclusive continuing jurisdiction for modification purposes)

Rey v. Spinetta, 8 A.D.3d 393, 777 N.Y.S.2d 746, 2004 N.Y. Slip Op. 04731 (2nd Dep't 2004) (Family Court erred in declining jurisdiction without considering whether NY was a more convenient forum)

Laurence C. v. James T.R., 5 Misc.3d 691, 785 N.Y.S.2d 859, 2004 N.Y. Slip Op. 24326 (Fam.Ct. Rockland C'ty 2004) (though NY has continuing exclusive jurisdiction, the court declined to exercise jurisdiction as NY was an inconvenient forum)

Diane H. v. Bernard H., 3 Misc.3d 1101(A), 787 N.Y.S.2d 677 (Table), 2004 WL 895967, 2004 N.Y. Slip Op. 50318(U) (Fam.Ct. Erie C'ty 2004) (unreported) (NY court in modification proceeding enjoined parties from proceeding with enforcement case in originating state IN where the parties and the child no longer resided)

Arnold v. Harari, 4 A.D.3d 644, 772 N.Y.S.2d 727, 2004 N.Y. Slip Op. 01079 (3rd Dep't 2004) (NY was home state despite children's frequent travel to Israel based on parent's representations that trips were intended to be temporary)

Cao v. Zhao, 2 A.D.3d 1203, 769 N.Y.S.2d 650, 2003 N.Y. Slip Op. 19863 (3rd Dep't 2003) (Family Court did not err in dismissing custody petition where FL had jurisdiction despite allegations of abuse of the subject child; directing parties to submit "submissions on the law and anything else you want to submit" afforded litigants adequate opportunity to be heard)

Hector G. v. Josefina P., 2 Misc.3d 801, 771 N.Y.S.2d 316, 2003 N.Y. Slip Op. 23925 (Sup.Ct. Bronx C'ty 2003) (The Dominican Republic declined to exercise jurisdiction when both parents have since moved to NY. The NY court is the more convenient forum and will modify the previous custody arrangement from the Dominican Republic.)

Matter of Tyler S., 192 Misc.2d 728, 748 N.Y.S.2d 215, 2002 N.Y. Slip Op. 22170 (Fam.Ct. Kings C'ty 2002) (subject child who had been placed in foster care in CT was returned to NY per the UCCJEA after the CT court learned of the pending neglect proceeding in NY)

Jeanne E.M. v. Lindsey M.M., 189 Misc.2d 669, 734 N.Y.S.2d 837, 2001 N.Y. Slip Op. 21504 (Fam.Ct. Albany C'ty 2001) (although decided prior to the UCCJEA effective date, it discusses its then-recent enactment and domestic violence considerations)

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