

>> OKAY.

THINK WE GOT 'EM QUIETED DOWN.
THE SECOND CASE ON THE DOCKET
TODAY IS LEDOUX-NOTTINGHAM V.
DOWNS.

WHENEVER YOU'RE READY.

TAKE YOUR TIME.

>> WE'VE CLEARLY LOST OUR
AUDIENCE.

GOOD MORNING.

MAY IT PLEASE THE COURT, MY NAME
IS JAMIE MOSES FROM THE ORLANDO
LAW FIRM OF FISHER RUSHMER.

I AM HERE ON BEHALF OF THE
PETITIONER, RUTH
LEDOUX-NOTTINGHAM.

SHE APOLOGIZES FOR NOT BEING
HERE, BUT IT IS HER DAUGHTER'S
EIGHTH GRADE GRADUATION.

WE ARE REQUESTING THAT THIS
COURT RESOLVE THE CONFLICT
BETWEEN THE 5TH DISTRICT BELOW
IN THIS CASE AND THE 4TH
DISTRICT IN MS V. DC.

I HAVE REQUESTED FIVE MINUTES
FOR REBUTTAL.

THE FACTS ARE, BRIEFLY, THAT
MS. NOTTINGHAM MARRIED
MR. NOTTINGHAM IN COLORADO.

THEY HAD TWO CHILDREN.

THEY WERE DIVORCED IN APRIL OF
2010, AND THEN MR. NOTTINGHAM
DIED AS A RESULT OF A GUNSHOT
WOUND IN AUGUST OF 2011.

SUBSEQUENT THERETO,
MS. NOTTINGHAM MOVED TO FLORIDA
TO BE WITH HER FAMILY.

THE GRANDPARENTS IN THIS CASE,
THE RESPONDENTS, ONE IS THE
MOTHER OF THE FATHER AND THE
OTHER IS MARRIED.

HE IS NOT RELATED BIOLOGICALLY
TO THE FATHER OR THE
GRANDCHILDREN.

THEY SOUGHT AND OBTAINED A
VISITATION ORDER IN COLORADO.

>> WAS THAT-- NOW, WHAT
HAPPENED IN COLORADO WAS MANY
ACCORDANCE WITH THEIR STATUTE
AND THEIR PROCEDURES AND THEIR

CONSTITUTION, CORRECT?
YOUR CLIENT PARTICIPATED?
I MEAN, SHE'S NOT MAKING AN
ARGUMENT THAT THE FINAL JUDGMENT
IS, VIOLATES DUE PROCESS OR IT'S
VOID?

>> NO, MA'AM.

>> OKAY.

>> MY HONOR-- OR, MY HONOR, MY
CLIENT ADAMANTLY OPPOSED THE
EFFORTS OF THE RESPONDENTS.

>> OKAY.

AND DID SHE APPEAL THE FINAL
JUDGMENT?

>> SHE DID NOT.

SHE DID NOT HAVE THE RESOURCES
TO DO SO.

>> WELL, I MEAN, I DON'T KNOW
WHETHER SHE DID OR DIDN'T.
AND UNDER COLORADO IF AFTER THAT
WAS ENTERED IT WAS A CHANGE IN
CIRCUMSTANCES WHERE THE
VISITATION WAS NOT IN THE
CHILDREN'S BEST INTEREST, WAS
THERE A RIGHT IN COLORADO FOR
HER TO GO BACK AND LIMIT THE
VISITATION?

>> IN ALL HONESTY WITH THE
COURT, I AM NOT AWARE OF THAT
BECAUSE I'VE NEVER LOOKED AT
THAT ISSUE BECAUSE SHE WAS A
FLORIDA RESIDENT EVEN AT THE
TIME--

>> RIGHT.

SHE DIDN'T CONTEST THAT COLORADO
HAD JURISDICTION OVER THIS
MATTER, CORRECT?

>> THERE WAS AN ISSUE WITH
RESPECT TO THE FILING DATE, BUT
FRANKLY, IT WAS NOT
APPROPRIATELY HANDLED, AND I AM
NOT TRYING TO RAISE THAT ISSUE
ON APPEAL.

>> OKAY.

SO I GUESS MY QUESTION HERE IS
I'M LOOKING BACK, IT'S PRETTY
CLEAR THAT THIS STATE THROUGH
THIS COURT MORE THAN REALLY THE
LEGISLATURE HAS SAID THAT IT'S A
VIOLATION OF PRIVACY TO MANDATE

GRANDPARENT VISITATION.
IF-- BUT IN THIS CASE IF THE
CIRCUMSTANCES CHANGE WHERE THE
GRANDPARENTS COMING TO FLORIDA
START TO BELITTLE THE MOTHER OR
DO ANYTHING THAT WOULD BE
AGAINST THE CHILD'S BEST
INTERESTS, IS THERE-- THERE IS
THE ABILITY TO GO BACK INTO
COURT HERE EVEN THOUGH IT'S A
FINAL JUDGMENT AND SEEK
MODIFICATION OF THE VISITATION,
IS THAT CORRECT?

>> YES, MA'AM.

>> OKAY.

SO IT'S REALLY, IT'S A LITTLE
DIFFERENT THAN OTHER FINAL
JUDGMENTS WHERE WE GIVE FULL
FAITH AND CREDIT.

>> CORRECT.

>> AND I KNOW YOU SAID THERE'S
CONFLICT, BUT I WAS LOOKING AT
THE MS, THE CASE FROM THE 4TH
DISTRICT.

IS THERE ANYTHING DIFFERENCE?
BECAUSE THERE THE PARENT THAT
WAS, WHOSE GRANDPARENTS WERE
SEEKING VISITATION, HIS RIGHTS
HAD BEEN TERMINATED.

HE WAS IN PRISON.

SO YOU REALLY START TO HAVE A
VERY BIG, GREATER PUBLIC POLICY
ISSUE WHERE THE RIGHTS ARE
TERMINATED BUT YET THE
GRANDPARENTS ARE SEEKING
VISITATION.

YOU DON'T SEE THAT AS BEING
DISTINGUISHABLE FACTS?

>> WELL, NOT DISTINGUISHABLE IN
THE SENSE THAT ORIGINALLY IN
THAT CASE, IN MS AFTER THE
FATHER WAS INCARCERATED, THE
CHILDREN ACTUALLY LIVED WITH THE
GRANDPARENTS.

AND THE 4TH DISTRICT STILL SAID
THAT'S FINE, BUT THE MOTHER HERE
IN FLORIDA DOES NOT WANT THE
PARENTS TO HAVE VISITATION
RIGHTS, AND SHE HAS COMPLETE
AUTONOMY TO INSIST UPON THAT.

SO ACTUALLY, YOU KNOW, IN THIS CASE THE GRANDPARENTS SAW THE GRANDCHILDREN BUT HAD NO VISITATION OR CUSTODY OR ANYTHING LIKE THAT.

AND THEN, UNFORTUNATELY, THEIR FATHER PASSED--

>> I GUESS I SEE A DIFFERENCE, AND WE NEVER HAD ONE OF THOSE WHERE THE RIGHTS ARE TERMINATED OF THE PARENT AS OPPOSED TO IN THIS DYING OR A DIVORCE, YOU KNOW, WHETHER THERE'S ARGUABLY, YOU KNOW, THE SITUATION SOMEBODY DIES, THEN THE REMAINING SPOUSE, YOU KNOW, CUTS OFF THE GRANDPARENTS.

BUT ANYWAY--

>> BUT I THINK--

>> LET'S ASSUME THERE'S CONFLICT.

>> RIGHT.

I MEAN, EVEN THIS COURT HAS HELD THAT THAT DOESN'T MATTER.

>> WE KNOW THAT UNDER THE FULL FAITH AND CREDIT CLAUSE THAT WE'RE SUPPOSED TO GIVE FULL FAITH AND CREDIT TO JUDGMENTS FROM OTHER STATES.

THIS JUDGMENT CAME TO FLORIDA AND WAS THEN DOMESTICATED HERE?

>> YES, MA'AM.

BY MY CLIENT.

>> OKAY.

SO UNDER WHAT AUTHORITY WOULD WE HAVE TO SAY, OKAY, WE DON'T GRANT GRANDPARENT VISITATION IN THIS STATEMENT, SO WE'RE NOT GOING TO GIVE FULL FAITH AND CREDIT TO THAT PARTICULAR ASPECT OF COLORADO.

UNDER WHAT AUTHORITY WOULD WE SAY THAT IN.

>> WELL, UNDER THE CASE THAT, ACTUALLY, THE 5TH DCA RELIED UPON IN THEIR DECISION, BAKER V. GENERAL MOTORS, THE FULL FAITH AND CREDIT CLAUSE SIMPLY GIVES A SISTER STATE JUDGMENT THE ABILITY TO BE RECOGNIZED WITHOUT

CHALLENGE TO THE AUTHORITY OF THE COURT TO ENTER IT WHETHER THE COURT HAD JURISDICTION OVER THE PARTIES.

THE ENFORCEMENT, HOWEVER, IS WHERE YOU HAVE THE RIGHT TO SAY, NO, IT WILL NOT BE ENFORCED IN THIS STATE, BECAUSE IT DOES NOT-- IT TRAMPLES UPON A FLORIDA CITIZEN'S CONSTITUTIONAL RIGHTS.

AND THIS COURT HAS DETERMINED THAT THE ONLY WAY THAT A PARENT LOSES THEIR RIGHT TO CHILD REARING AUTONOMY IS IF THERE IS A COMPELLING STATE INTEREST.

AND THIS COURT HAS DEFINED COMPELLING STATE INTEREST AS HARM TO THE CHILDREN.

>> SO LET ME ASK YOU, HOW DOES THAT SQUARE WITH THE SUPREME COURT DECISION OF VL WHERE IT BASICALLY SAYS IF YOU DON'T AGREE WITH THE REASONING OR THE JUDGMENT OF THE SISTER STATE, THAT THAT IS NOT A REASON NOT TO GIVE IT FULL FAITH AND CREDIT?

>> I BELIEVE THE ISSUE IN VL, AND I THINK YOU ARE REFERRING TO THE IS SUPPLEMENTAL AUTHORITY THAT WAS SUBMITTED TO THE COURT. THE ISSUE IN THAT CASE WAS THAT THE COURT OF APPEALS SAID THAT THE GEORGIA COURT NEVER HAD JURISDICTION, AND THE SUPREME COURT SAID IF THAT IS THE CHALLENGE TO THE OPINION, YOU ARE WRONG, AND YOU MUST HONOR THAT DECISION BECAUSE IT WAS A FACIALLY VALID FINAL JUDGMENT. YOU DO HAVE THE AUTHORITY IN THE STATE OF FLORIDA NOT TO ENFORCE JUDGMENTS THAT ARE IN CONTRAVENTION OF OUR STATE CONSTITUTION.

>> HAVE WE EVER SAID OR IS THERE ANY CASE THAT SAYS THAT FULL FAITH-- AN EXCEPTION TO THE FULL FEINT AND CREDIT-- FULL FAITH AND CREDIT CLAUSE IS THE

PUBLIC POLICY OF THE RECEIVING STATE?

>> I DON'T KNOW IF YOU HAVE COME OUT AND SAID THAT.

BUT IN MY BRIEF I REFERRED THE COURT TO THE HIRSHFIELD CASE WHICH WAS REGARDING AN OUT-OF-THE STATE JUDGMENT THAT WAS ATTEMPTED TO BE ENFORCED EXISTENCE SOMEONE'S HOMESTEAD IN THE STATE.

AND THIS COURT RECOGNIZED THAT WE HAVE AN EXCEPTION TO THE CONSTITUTIONALLY-PROTECTED HOMESTEAD EXEMPTION IF THERE HAS BEEN FRAUD PERPETRATED IN-- AND THEN HAVING IT, YOU KNOW, SORT OF HIDDEN THROUGH THE HOMESTEAD. AND THE COURT HAS SAID-- THE COURT WOULD HAVE RECOGNIZED OUR HOMESTEAD EXEMPTION EXCEPT FOR THE EXCEPTION TO THE HOMESTEAD EXEMPTION.

SO I DO BELIEVE THAT THERE IS LAW IN THIS STATE WHEREIN IT IS NOT REQUIRED TO ENFORCE A JUDGMENT WITH.

AND THAT IS THE KEY.

IN BAKER V. GENERAL MOTORS, THAT WAS AN AGREED-TO INJUNCTION BETWEEN AN EMPLOYEE OF GENERAL MOTORS AND GENERAL MOTORS.

AND THE PARTIES REACHED A SETTLEMENT BECAUSE THE EMPLOYEE'S TESTIMONY WAS VERY DETRIMENTAL TO GENERAL MOTOR. AND THAT EMPLOYEE AGREED I WILL NEVER TESTIFY AGAINST GENERAL MOTORS IN ANOTHER STATE.

THIS WAS A MICHIGAN INJUNCTION. THEN WHEN THAT MOW WAS CALLED TO TESTIFY IN MISSOURI, OF COURSE, THE PARTY THAT WANTED THE EMPLOYEE TO TESTIFY OBJECTED TO IT, AND THE SUPREME COURT OF THE U.S. SAID YOU HAVE A RIGHTING NOT TO ENFORCE-- A RIGHT NOT TO ENFORCE A SISTER STATE JUDGMENT. YOU CAN RECOGNIZE IT AND GIVE IT WHAT IT'S ENTITLED TO PURSUANT

TO RECOGNITION, BUT YOU ARE NOT REQUIRED TO ENFORCE IT IF IT IS AGAINST-- AND THAT CASE WAS AGAINST THE PUBLIC POLICY OF THE RECOGNIZING STATE.

WE HAVE A CONSTITUTIONAL--

>> BUT ISN'T THAT JUST AN ENTIRELY DIFFERENT SITUATION? YOU'VE GOT A CIRCUMSTANCE THERE WHERE THE FOREIGN STATE HAS AN INTEREST IN GETTING THE EVIDENCE OF THAT PARTICULAR PERSON. AND FOR ANOTHER STATE TO SAY, OH, NO, YOU IN YOUR STATE CAN'T GET EVIDENCE IN ONE OF YOUR COURT PROCEEDINGS BECAUSE OF THIS AGREEMENT THAT WAS ENTERED PREVIOUSLY, THAT'S ENTIRELY DIFFERENT THAN WHAT WE'RE TALKING ABOUT HERE.

AND IN THAT VERY CASE OF BAKER, DIDN'T THE COURT TAKE PAINS TO MAKE THE POINT THAT ITS PRECEDENT DOES NOT SUPPORT WHAT THEY REFER TO AS A ROVING PUBLIC POLICY EXCEPTION TO THE FULL FEINT AND CREDIT? -- FULL FAITH AND CREDIT?

IT SEEMS TO ME THAT YOU ARE SPECIFICALLY ADVOCATING A ROVING EXCEPTION, PUBLIC POLICY EXCEPTION TO THE FULL FAITH AND CREDIT CLAUSE.

WHY AM I WRONG?

>> I WILL NEVER SAY YOU'RE WRONG--

[LAUGHTER]

>> WHY AM I MISTAKEN?

>> I WOULD SUBMIT THAT I AM NOT ADVOCATING A ROVING PUBLIC POLICY EXCEPTION.

IF I WAS--

>> YOU JUST WANT ONE IN THIS CASE.

[LAUGHTER]

>> NO, NO.

IF I WAS, I WOULD SAY THE EMBREY CASE WAS DECIDED WRONG.

EMBREY WAS ABOUT THE TWO FEMALE WOMEN WHO ADOPTED CHILDREN IN

ANOTHER STATE, AND WHEN THINGS
FELL APART AND THEY MOVED TO
FLORIDA, ONE OF THE SPOUSES WAS
TRYING TO GET CUSTODY OF THE
CHILD-- VISITATION PURSUANT TO
THEIR ADOPTION DECREE, AND THE
OTHER WOMAN SAID, WHO E, WHOA,
WHOA, NOT IN FLORIDA, THEY DON'T
RECOGNIZE OUR MARRIAGE,
THEREFORE, THEY DON'T RECOGNIZE
YOUR RIGHT TO VISIT THE CHILDREN
OF OUR MARRIAGE.

AND IT WAS STATED THAT, NO, NO,
NO, FLORIDA HAS A STATUTE THAT
RECOGNIZES THAT IF YOU OBTAIN
THE RIGHT AND PRIVILEGE OF BEING
AN ADOPTIVE PARENT IN ANOTHER
STATE, WE WILL ENFORCE THAT
ADOPTION HERE IN FLORIDA.

IF I WAS ADVOCATING A ROVING
PUBLIC POLICY EXCEPTION, I WOULD
SUBMIT TO YOU THAT EMBREY WAS
WRONGLY DECIDED.

I AM NOT.

IN THIS CASE-- AND SPECIFICALLY
IN THIS CASE-- A VISITATION
ORDER IS BEING ENFORCED IN FAVOR
OF PARENTS.

AND I DON'T WANT IT TO BE LOST
ON THE COURT THAT THIS 11 AND
5-YEAR-OLD CHILDREN WERE
REQUIRED TO FLY ACROSS THE
COUNTRY ALONE TO ENFORCE THE
VISITATION.

THE ORDER WENT SO BROAD, THE
ORDER IN THIS STATE WENT SO
BROAD AS TO SAY VISITATION COULD
BE HELD WHEREVER THE
GRANDPARENTS CHOSE.

>> OKAY.

SO BUT THAT'S WHAT I'M-- WHAT I
STARTED ASKING YOU ABOUT WHICH
IS THAT IT IS, THERE WAS A SET
OF CIRCUMSTANCES WHEN THE
COLORADO COURT MADE A DECISION
AS TO THE VISITATION.

WHATEVER THE REASON IS, IF IT
WAS TOO BROAD, THE MOTHER HAD A
RIGHT TO APPEAL SAYING IT WASN'T
IN BEST INTERESTS.

THIS, YOU KNOW, THESE THINGS HAPPEN, AS YOU KNOW, ALL THE TIME IN DISPUTES.

NOW, IT IS UNFORTUNATE THAT THE DISPUTE ENDS UP BEING WITH GRANDPARENTS, AND, YOU KNOW, SO YOU'VE GOT THIS MOTHER WHO'S, YOU KNOW, WHATEVER.

NOW WE'RE HERE IN FLORIDA. THE JUDGE DOMESTICATES THE FINAL JUDGMENT.

I DON'T SEE-- AND I THOUGHT YOU SAID, I'M GOING TO ASK YOUR OPPONENT-- THAT IF THE WAY THE JUDGMENT HAS BEEN ENTERED IN PRACTICAL TERMS IS CAUSING THIS NOT TO BE IN THE CHILDREN'S BEST INTEREST, THAT JUST LIKE EVERY OTHER VISITATION POST-JUDGMENT, IT CAN BE MODIFIED WITH EVIDENCE.

BUT I THOUGHT THE ONLY ISSUE WE'RE DECIDING HERE IS AT THE OUTSET.

THE DOMESTICATION, THAT STARTS, THAT'S THE STARTING POINT.

IT'S NOT VOID BECAUSE IT HAS FULL FAITH AND CREDIT, THEN NOTHING PROHIBITS-- I DON'T KNOW WHEN THIS OPINION CAME OUT, BUT NOTHING-- WHAT WAS IT-- WHAT WAS IT, IT WAS A YEAR AGO NOTHING PROHIBITS THE MOTHER FROM GOING BACK INTO COURT TO MODIFY THE VISITATION SCHEDULE.

>> WELL, SHE ATTEMPTED TO MODIFY IT, AND THE COURT REJECTED THAT AND SAID THIS WASN'T A SUBSTANTIAL CHANGE IN CIRCUMSTANCES.

>> WELL, BUT THAT'S NOT BEFORE US, OKAY?

THAT'S NOT-- THE ISSUE OF WHETHER THERE WAS THEY USED THE WRONG STANDARD OR WHATEVER IT IS IS NOT AN ISSUE BEFORE US.

DO YOU AGREE WITH THAT?

>> I THINK THE ARGUMENT IS WHETHER IT NEEDED TO BE ENFORCED OR WAS IT PROPER TO ENFORCE IT

UNDER THE LAWS OF THE STATE OF FLORIDA.

THAT IS WHAT I THOUGHT WAS CERTIFIED TO YOU AS THE CONFLICT.

BECAUSE MS SAID--

>> WELL, I DON'T KNOW BECAUSE LET ME-- I'LL ASK THIS QUESTION.

I FEEL PRETTY STRONGLY ABOUT THIS.

IF YOU HAD TWO PARENTS IN A DISSOLUTION OF MARRIAGE CASE IN COLORADO AND THERE WAS AN AGREEMENT ON VISITATION AND THEN THE MOTHER GOES TO FLORIDA, CLEARLY THE WHOLE ISSUE OF HOW THE VISITATION IS GOING TO WORK--

>> CAN BE MODIFIED.

>>-- IS GOING TO CHANGE.

I DIDN'T SEE THAT AS BEING AN ISSUE BEFORE US.

>> BECAUSE THIS IS NOT, THIS IS NOT A CUSTODY DETERMINATION AMONGST PARENTS.

THIS IS DIFFERENT.

THIS IS A VISITATION ORDER.

THE GRANDPARENTS HAVE ABSOLUTELY NO RIGHTS IN THIS STATE BUT FOR THAT ORDER.

>> LET ME, LET ME ASK YOU THIS, WHAT DOES THE PARENTAL KIDNAPPING PREVENTION ACT HAVE TO DO WITH THIS CASE, IF ANYTHING?

>> IT'S COMPLETELY IRRELEVANT.

I THINK IT'S A RED HERRING.

>> WHY SO?

>> BECAUSE THAT IS REGARDING PARENTS AND CUSTODY.

WE DON'T HAVE PARENTS HERE WHO HAVE RIGHTS--

>> AND UNDER THE CURRENT LANGUAGE OF THE STATUTE, YOU'RE REPRESENTING TO ME THIS HAS NO APPLICATION TO GRANDPARENTS AND VISITATION?

>> I DON'T THINK THIS IS A CUSTODY ORDER AWARDED CUSTODY TO

PARENTS.

>> AND YOU'VE LOOKED AT THE STATUTE.

>> I THOUGHT I HAD.

IF I'VE BEEN MISTAKEN-- I'M DOWN TO FOUR MINUTES AND 50 SECONDS, AND I HAD RESERVED--

>> YOU DON'T THINK THAT UNDER THAT STATUTE THAT THE STATUTE COVERS BOTH CUSTODY AND VISITATION ORDERS?

>> VISITATIONS FOR PARENTS, NOT GRANDPARENTS.

IF THE GRANDPARENTS HAD OBTAINED A CUSTODY ORDER, SAY THAT THEIR CHILD DIED AND THEY BECAME THE CUSTODIAN OF THE CHILDREN, THAT IS DIFFERENT.

I DON'T THINK THE PKPA ADDRESSES GRANDPARENT VISITATION.

BUT I ENVISION I'M GOING TO BE CHALLENGED WHEN I GET UP FOR REBUTTAL.

HOWEVER, IF THIS COURT DETERMINES IT APPLIES, IT ALLOWS FOR MODIFICATION.

AND THAT IS WHAT

MS. LEDOUX-NOTTINGHAM ATTEMPTED TO DO--

>> DENIED THAT MODIFICATION, AND WHAT IS BEFORE US IS NOT THE CORRECTNESS OR ERRONEOUSNESS OF THAT MODIFICATION, IS IT?

I THOUGHT WHAT WAS BEFORE US IS WHETHER OR NOT THIS STATE HAD TO GIVE FULL FAITH AND CREDIT TO THE COLORADO JUDGMENT.

>> I BELIEVE THAT IS THE ISSUE BEFORE YOU.

>> OKAY.

>> LET ME ASK YOU A QUICK QUESTION BEFORE YOU SIT DOWN.

>> YES, SIR.

>> TO FOLLOW UP ON JUSTICE PARIENTE'S QUESTIONING, SOMEBODY-- A COUPLE IN COLORADO HAVE A VISITATION AGREEMENT IN CONJUNCTION WITH THEIR FINAL DISSOLUTION OF MARRIAGE. THAT FINAL JUDGMENT IS

DOMESTICATED IN FLORIDA, BUT
THEY WANT TO MODIFY IT
ADDRESSING THE VISITATION ISSUE.

>> YES, SIR.

>> AND THERE'S-- MAY THEY
MODIFY THAT?

>> YES, SIR.

>> OKAY.

SO THE MODIFICATION OF THAT, IS
THAT MODIFICATION THEN UNDER
FLORIDA LAW OR COLORADO LAW?

>> FLORIDA LAW.

>> FLORIDA LAW?

>> YES, SIR.

>> OKAY.

>> THANK YOU.

[INAUDIBLE CONVERSATIONS]

>> GOOD MORNING.

MAY IT--

>> GO AHEAD, SORRY.

>> MAY IT PLEASE THE COURT, I'M
ANDREW WINDLE ON BEHALF OF THE
GRANDPARENTS WHO ARE PRESENT IN
THE GALLERY TODAY, AND I BELIEVE
THIS COURT HAS CORRECTLY
IDENTIFIED THE ISSUE BEFORE IT
IN TERMS OF WHAT WAS CERTIFIED,
THAT IT DOES NOT RELATED TO
MODIFICATION, RATHER, IT RELATES
TO THE CONFLICT BETWEEN THE 4TH
AND 5TH DCA OPINIONS.

WHAT'S INTERESTING IS THAT THE
4TH DCA EXPRESSLY RULED UPON A
DIFFERENT PRINCIPLE OF LAW THAN
THE 5TH DCA.

AND I BELIEVE THAT'S WHERE THE
CONFLICT BEGINS AND ENDS.

THE 4TH DCA IN THEIR OPINION
STATED, AND I WILL QUOTE WITH,
WE HAVE CONSIDERED THE ARGUMENT
THAT THE CONNECTICUT VISITATION
IS ENTITLED TO FULL FAITH AND
CREDIT.

HOWEVER, A VISITATION PROVISION
SUCH AS THIS, WHILE ENTITLED TO
A RESPECT ON COMITY PRINCIPLES,
DOES NOT PREVENT THE APPLICATION
OF AN OVERRIDING PROVISION OF
OUR LAW REQUIRING A PAIR ERA
MOUNT PUBLIC POLICY.

THE 4TH DCA EXPRESSLY CONSIDERED THE IDEA OF FULL FAITH AND CREDIT AND PROCEEDED TO APPLY COMITY WHICH WAS NOT SOMETHING UNIQUE AT THAT POINT IN TIME BECAUSE PREVIOUSLY IN LAW IT HAD BEEN A LARGE DISPUTE AS TO WHETHER CUSTODIAL DETERMINATIONS AND VISITATION--

>> YOU JUST GO BACK TO THE QUESTIONS THAT WE'VE BEEN ASKING ABOUT WHERE-- THE LAW THAT WOULD APPLY TO ANY DISPUTE ABOUT THE APPLICATION OF THE VISITATION RIGHT FROM COLORADO?

I MEAN, CAN NOW THAT THE COLORADO ORDER HAS BEEN DOMESTICATED IN FLORIDA, CAN IT BE MODIFIED IN A FLORIDA COURT?

>> YES.

I'M NOT IN AGREEMENT-- I'M NOT IN DISAGREEMENT, EXCUSE ME, WITH THE MOTHER'S--

>> NOT IN DISAGREEMENT.

>> I'M IN AGREEMENT WITH THE MOTHER'S POSITION THAT FLORIDA LAW WOULD NOW BE THE APPLICABLE LAW WHEN IT COMES TO MODIFICATION, THAT FLORIDA HAS BECOME THE HOME STATE FOR THE CHILDREN, THAT COLORADO--

>> SO IF PUTTING TWO SMALL CHILDREN OR TWO YOUNG CHILDREN ON AN AIRPLANE TO VISIT GRANDPA AND GRANDMA IN COLORADO BECOMES, YOU KNOW, BURDENSOME AND CONTRARY TO THE CHILDREN'S BEST INTERESTS AS THEY GET A LITTLE OLDER, WOULD THAT-- ANY CHANGE IN THAT REQUIREMENT THAT THEY BE PLACED ON AN AIRPLANE, WOULD THAT BE BROUGHT IN FLORIDA?

>> IT WOULD, YOUR HONOR, YES.

>> A FLORIDA JUDGE WOULD CHANGE THAT.

>> IT WOULD IF THERE WAS AN APPLICATION OF APPROPRIATE STANDARD THAT IT AMOUNTED TO A SUBSTANTIAL CHANGE IN CIRCUMSTANCE--

>> RIGHT.

>>-- AND THEN PROCEEDING TO THE BEST INTEREST--

>> HERE'S THE PROBLEM, AND IT'S SO, OF COURSE, IT'S UNIQUE TO CUSTODY ISSUES AND, OF COURSE, THERE'S A UNIFORM-- THERE'S ALL WAYS THAT CUSTODY IS REGULATED THROUGH UNIFORM LAWS.

BUT WE DON'T EVEN CALL IT CUSTODY IN FLORIDA, RIGHT? IS THAT WITHIN OUR OWN STATE IF A PARENT WANTS TO MOVE FROM TALLAHASSEE DOWN TO, YOU KNOW, TO MIAMI AND TAKE THE, AND TAKE HER CHILDREN OR HIS CHILDREN, WE DON'T EVEN-- WE'VE GOT SOME STRONG LAW ABOUT ENCOURAGING THE RELATIONSHIP BETWEEN BOTH PARENTS AND NOT JUST TO ALLOW THE PARENT TO BE ABLE TO MOVE SOMEPLACE ELSE.

SO WHAT I'M SORT OF WONDERING ABOUT IS YOU HAVE A SITUATION WHERE YOU'VE GOT A MOTHER WHO UNDENIABLY IS THE, IS THE SOLE CUSTODIAN OF THE CHILDREN. SHE'S GOT-- THERE'S NO QUESTION THAT IT'S HER DECISION BECAUSE HER HUSBAND IS DECEASED AS TO WHERE SHE GOES TO SCHOOL, HOW SHE GETS RAISED, EVERYTHING ABOUT IT.

BUT NOW WE HAVE THE SITUATION WHERE THERE WAS NO-- COLORADO COULDN'T KEEP HER IN COLORADO IN ORDER TO ENFORCE GRANDPARENT VISITATION.

AND SHE, ACCORDING TO THE PETITIONER, YOU KNOW, SHE HAD ALREADY MOVED TO FLORIDA.

SO WHAT I'M WONDERING IS HOW ON EARTH WHEN WE DON'T EVEN-- WE REGULATE WHETHER SOMEBODY CAN GO FROM MIAMI TO TALLAHASSEE TO MIAMI, DO WE SAY THAT NOW THAT SHE'S MOVED TO FLORIDA, THAT'S NOT A SUBSTANTIAL CHANGE OF CIRCUMSTANCES TO RELOOK AT THE, YOU KNOW-- NOT TO SAY, TO DENY

THE GRANDPARENTS VISITATION, BUT REQUIRE THEM TO COME TO FLORIDA OR WHATEVER IT MIGHT BE? BUT THAT'S-- DO YOU AGREE THAT THAT WOULD GO INTO THE MIX OF WHAT A JUDGE SHOULD DO IN LOOKING AT WHETHER THE, WHAT OCCURRED BACK IN COLORADO IS STILL IN THE CHILDREN'S BEST INTERESTS?

>> ABSOLUTELY, YOUR HONOR. DISTINCTION WITH THIS PARTICULAR CASE IS THAT WHEN THE COLORADO JUDGMENT WAS ENTERED, IT WAS ENTERED WHEN THE MOTHER HAD ALREADY RELOCATED WITH THE CHILDREN TO FLORIDA.

IT WAS KNOWN THAT ON THE DAY OF THE FATHER'S FUNERAL, THE MOTHER ACTUALLY RELOCATED ON THAT PARTICULAR DAY FROM COLORADO TO FLORIDA, AND IT WAS A FULL FOUR AND A HALF MONTHS BEFORE THE COLORADO ORDER WAS EVEN ENTERED--

>> SO SHE HAD OPPORTUNITY THEN IN COLORADO TO ARGUE THAT THE EXTENT OF THE VISITATION WOULD BE DETRIMENTAL TO THE CHILDREN.

>> SHE DID.

AND WHAT SHE ACTUALLY ARGUED BEFORE THE COLORADO COURT, AND THIS IS FOUND IN THE COLORADO ORDER ITSELF, THE JUDGE SPECIFICALLY CONSIDERED THAT THE MOTHER'S TESTIMONY WAS THAT IT WAS IMPORTANT-- AND THAT WAS HER WORD AND THAT WAS MEMORIALIZED IN THE COLORADO ORDER-- IMPORTANT FOR THE CHILDREN TO HAVE CONTACT WITH THE GRANDPARENTS.

THE MOTHER ACKNOWLEDGED THAT AND ONLY POSED IN THE COLORADO PROCEEDING THE CONTACT BETWEEN THE GRANDPARENTS AND THE GRANDCHILDREN BASED OFF OF THE FEAR OF ABDUCTION.

SOMETHING FOUND TO BE UNFOUNDED. AND THE REASON IS MY

UNDERSTANDING THE COLORADO COURT IMPLEMENTED THE VISITATION SCHEDULE THE WAY THEY DID-- AND IT'S EXPRESSIVE IN THAT COLORADO ORDER-- WAS TO PRESERVE NOT JUST THE BOND BETWEEN THE CHILD AND GRANDPARENTS, BUT THE CHILD AND THE FATHER'S FAMILY AT LARGE WHICH IS VERY WELL INGRAINED IN THAT COLORADO COMMUNITY, HAS BEEN THERE FOR MULTIGENERATIONS. AND AS A RESULT OF THAT, THE COLORADO JUDGE ENTERED A VERY WELL-REASONED ORDER--

>> SO YOU MEAN IN COLORADO THEY ACTUALLY CAN ENTER ORDERS THAT REQUIRE A CHILD IN AN INTACT FAMILY TO HAVE CONTACT WITH EXTENDED FAMILY?

>> THAT'S NOT EXACTLY WHAT I WAS TRYING TO ASSERT, YOUR HONOR. I DIDN'T MEAN TO SAY THAT. WHAT I WAS INSERTING WAS THAT THE CONTACT WAS GIVEN WITH THE GRANDPARENTS FOR THE EXPRESS PURPOSE OF THE BENEFIT BEING THAT THE CHILD WOULD KNOW THAT SIDE OF THE FAMILY. THE CONTACT DESIGNATION IS ONLY TO THE GRANDPARENTS, HOWEVER. IT IS NOT AS IF IT WAS EXTENDED TO ANY OTHER THIRD PARTIES WITH RESPECT TO THAT.

HOWEVER, THIRD PARTY CONTACT RIGHTS, INTERESTINGLY, AS THE UNITED STATES SUPREME COURT FOUND IN FOX EL, ARE NOT A PER SE VIOLATION OF ANY FEDERAL CONSTITUTIONAL--

>> IT'S JUST-- I'M SORRY. GO AHEAD.

>> IS THERE ANY INDICATION AS TO WHY THE CHILDREN HAVE TO DO THE TRAVELING AS OPPOSED TO THE PARENT-- THE GRANDPARENTS?

>> I BELIEVE THAT WAS THE INDICATIONS, BECAUSE THEY HAD FORMED SUCH A RICH HERITAGE OF COMMUNITY WITHIN COLORADO AND HAD BECOME SO--

>> SO THE CONSIDERATIONS OF THE OTHER THIRD PARTIES WAS A PART OF THAT ORDER.

>> I DON'T BELIEVE SO. I BELIEVE THE BENEFIT WAS SUPPOSED TO BE THE CHILDREN'S IN KNOWING WHAT WAS GOING ON UP THERE.

KNOWING BECAUSE, AGAIN, IT HAD BEEN MULTIGENERATIONAL.

THIS FAMILY LITERALLY HAD STREETS NAMED AFTER THEM IN THEIR COMMUNITY.

SO THERE WAS A LOT OF BENEFIT--

>> BUT YOU SEE, HERE'S WHY THE VONNIFE OPINION IS-- I REREAD IT LAST NIGHT.

MANY OF US ARE GRANDPARENTS, BUT EVERY PART WE WANT TO HAVE CONTACT WITH OUR GRANDCHILDREN. AND IT'S, HOPEFULLY, ALWAYS A VERY GOOD THING.

IT'S JUST SO, IT'S SO SAD WHEN COURTS HAVE TO GET INVOLVED IN THESE RELATIONSHIPS AND, YOU KNOW, BASICALLY DICTATE HOW IT GOES ESPECIALLY AFTER THE DEATH OF A SPOUSE.

SO WE GO BACK TO THAT THE JUDGE IN THIS CASE LOOKED AT ALL THE NEW TESTIMONY AND SAID IT SHOULD NOT BE MODIFIED?

BUT THAT'S NOT BEFORE US.

>> THAT'S NOT BEFORE US.

BUT THE JUDGE DID LOOK AT THAT, AND THE INTERESTING THING ABOUT THAT IS THE STANDARD WHICH SEEMED TO BE AGREED ACROSS THE BOARD WAS A SUBSTANTIAL CHANGE IN CIRCUMSTANCE.

AND GIVEN THAT THE MODIFICATION ACTION WAS JUST AN A AMENDMENT OF THE ORIGINAL PETITION THE MOTHER FILED, AND IT WAS FILED A MERE 13 DAYS AFTER THE FINAL JUDGMENT FROM COLORADO WAS ENTERED, IT BECAME EXCEEDINGLY CLEAR THAT ON ITS FACE THAT THERE HAD NOT ACTUALLY BEEN A

CHANGE.

AND THAT WAS, AGAIN, REITERATED ON CROSS-EXAMINATION AS THE MOTHER TESTIFIED AND THEN OPENLY ACKNOWLEDGED IN

CROSS-EXAMINATION THAT EVERYTHING THAT SHE HAD POINTED TO AS A CHANGE HAD BEEN SOMETHING THAT PREDATED--

>> WELL, THAT DOES NOT PRECLUDE HER, SAY, TODAY FILING A MOTION TO MODIFY IF THERE ARE, IN FACT, A CHANGE OF CIRCUMSTANCES--

>> IF THERE WAS A CHANGE IN CIRCUMSTANCE, AND I'D JUST POINT OUT THAT BECAUSE OF THE FACT THAT HAD ALWAYS BEEN THE CASE THAT WAS STRUCTURED, THE VISITATION ARRANGEMENT AS IT WAS, PRECEDING-- EXCUSE ME. THE MOTHER HAD MOVED TO FLORIDA, SO IT WAS ALWAYS KNOWN THAT THIS WOULD BE THE TRANSPORTATION ARRANGEMENT.

THAT TRANSPORTATION WAS CONTEMPLATED AND IS NOT A CHANGE.

>> IS THERE ANYTHING IN THE COLORADO JUDGMENT ABOUT IF THE PARTICIPANT-- IF THE GRANDPARENTS MOVED?

SAY, FOR EXAMPLE, THE GRANDPARENTS DECIDED THAT, YOU KNOW-- ASSUMING THEY'RE RETIRED, THAT IT'S CHEAPER TO RETIRE IN SOUTH AMERICA AND WOULD, DOES IT COVER THAT KIND OF SITUATION?

>> IT DOESN'T.

IT DOESN'T GIVE FORE THOUGHT TO A SUBSTANTIAL CHANGE OF CIRCUMSTANCE OF THAT MAGNITUDE WITH RESPECT TO THAT.

BUT THERE IS AN EXPRESS FINDING, AGAIN AS OPPOSING COUNSEL HAS POINTED OUT HERE, THAT THE GRANDPARENTS WERE DESIGNATED THE RIGHT TO MAKE THE TRAVEL ARRANGEMENTS AT THE LOCALE THAT THEY SOUGHT TO BE BEST.

>> SO AT THE TIME THAT THE ORDER WAS ENTERED IN COLORADO, THE WHOLE BUSINESS ABOUT THE CHILDREN FLYING ON AN AIRPLANE AND BEING TRANSPORTED BACK AND FORTH, WAS THAT CONTEMPLATED AT THAT TIME?

>> VERY WELL KNOWN AT THAT TIME, YOUR HONOR, YES.

AND THAT IS WHY IT EXPRESSLY STATED THAT THE GRANDPARENTS WERE RESPONSIBLE FOR THE TRAVEL COSTS, AND THEY WERE TO PICK THE LOCATION.

>> THE MOTHER'S MOVE TO FLORIDA, WAS FLORIDA JUST RANDOMLY CHOSEN?

WAS SHE-- DID SHE HAVE FAMILY HERE?

WAS THAT SOMETHING THAT WAS CONTEMPLATED AT THE TIME THAT SHE WOULD EVENTUALLY MOVE TO FLORIDA?

>> YES, SHE DOES HAVE FAMILY HERE.

HER MOTHER RESIDES IN THE STATE OF FLORIDA.

SHE'S LOCATED, MY UNDERSTANDING NOW, WITH HER MOTHER.

AND THE COLORADO PROCEEDING DURING THE ORIGINAL DIVORCE PROCEEDINGS BETWEEN THE HUSBAND AND WIFE WHILE THE FATHER WAS STILL ALIVE, THERE WAS ACTUALLY DISPUTE ABOUT THAT RELOCATION ITSELF.

SO IT IS NOT A RANDOM EVENT THAT SHE MOVED TO FLORIDA, NOR WOULD WE SUGGEST THAT'S A PRETEXT.

>> IF THE GRANDPARENTS DECIDE TO GO ON VACATION, FOR EXAMPLE, TO EUROPE, THEY COULD JUST MAKE ARRANGEMENTS FOR THEIR VISITATION PERIOD TO TAKE THE CHILDREN TO EUROPE?

>> I DO NOT BELIEVE SO, YOUR HONOR.

I BELIEVE THAT WOULD BE EXCLUDED NOT BY THE JUDGMENT ON ITS FACE, BUT RATHER BY THE PASS

PORTH LAWS AND THE NOTION THAT YOU HAVE TO IF YOU'RE TRAVELING WITH A MINOR SUCH AS THAT HAVE AUTHORIZATION FROM THE PARENT EXPLICITLY. I BELIEVE, AND THAT'S OUTSIDE OF THE CITATIONS, BUT I BELIEVE THERE WAS AMENDMENT TO THOSE OBLIGATIONS UNDER THE PATRIOT ACT WHEN THAT WAS ENACTED.

>> UNDER THE COLORADO LAW-- I HAVEN'T READ THE STATUTE THERE-- LET'S ASSUME THAT THE FATHER IN THIS CASE WAS ALIVE AND HE AND THE MOTHER DECIDED TO MOVE TO FLORIDA.

COULD THE GRANDPARENTS UNDER COLORADO LAW HAVE, FILE ANY TYPE OF ACTION TO REQUIRE VISITATION RIGHTS?

IF BOTH PARENTS WERE ALIVE AND THEY CHOSE TO MOVE TO FLORIDA?

>> I THINK THERE'D BE DIFFICULTY IN THAT POINT BECAUSE THEN COLORADO HAS LOST JURISDICTION OVER THE CHILDREN.

IN COLORADO WITHOUT JURISDICTION OF THE CHILDREN, IT WOULD BE AN IMPEDIMENT TO THEIR ABILITY UNDER BOTH THE UCCJ AND THE PARTICIPANT--

>> WHAT IF THE GRANDPARENTS LEARNED THAT THE MOM AND DAD WERE MANNING THE MOVE TO FLORIDA WITH THE CHILDREN AND WENT INTO COURT UNDER SOME TYPE OF INJUNCTION OR SOMETHING LIKE THAT, DOES COLORADO LAW PROVIDE FOR SUCH A THING?

>> UNDER MY HUMBLE UNDERSTANDING OF THE COLORADO LAW, THERE IS A DIFFERENT STANDARD WHEN BOTH PARENTS ARE ALIVE AND MAKING THOSE DETERMINATIONS, HOWEVER, I WOULDN'T WANT TO SPEAK TOO MUCH ABOUT COLORADO LAW AS I'M NOT AN AUTHORIZED PRACTITIONER FOR THE STATE OF COLORADO AND CAN'T PROFESS TO HAVE ANY SORT OF ABILITY TO

MAINTAIN THOSE POSITIONS WITH
AUTHORITY.

BUT I WOULD POINT OUT GOING KIND
OF BACKWARDS TO SOMETHING
BROUGHT UP PREVIOUSLY WHICH WAS,
ESSENTIALLY, THE COLLATERAL
ATTACK ON THE FULL FAITH AND
CREDIT ARGUMENT WITH RESPECT TO
WHAT HAD BEEN OBSERVED IN
COLORADO AND DID THE MOTHER
BRING AN APPEAL AND DOES SHE NOW
HAVE THE RIGHT TO CHALLENGE THE
VERACITY OF THAT JUDGMENT EITHER
ON A CONSTITUTIONAL OR
ENFORCEABILITY BASIS?

THERE WAS THE CASE WHICH IS A
UNITED STATES SUPREME COURT CASE
OF ALDRIDGE V. ALDRIDGE.

AND IN THAT CASE WE HAD AN
INTERESTING DETERMINATION
BECAUSE IT WAS ACTUALLY FOUND
THAT THE COURT DID, IN FACT, IT
WAS ACTUALLY A FLORIDA COURT
THAT DID, IN FACT, ENTER AN
ALIMONY JUDGMENT IN ERROR.
AND THAT WASN'T DISPUTED, BUT
WHAT THE U.S. SUPREME COURT
FOUND WAS THAT WHEN THE HUSBAND
FAILED TO TAKE AN APPEAL AND
GIVE A REVIEWING COURT THE
OPPORTUNITY TO CORRECT THE
ERROR, THE DECREE OF THE CIRCUIT
COURT ON WHICH SUCH QUESTION
PASSED INTO VERITY BECAME FINAL
IS NOT NOW SUBJECT TO COLLATERAL
ATTACK.

IT WENT ON TO STATE THAT THE
ALIMONY, THE FLORIDA ALIMONY
DECREE MUST BE TREATED AS IF IT
WERE PERFECTLY CORRECT UNDER
SUBSEQUENT PRINCIPLES OF LAW.
AND THAT IS WHAT WE SEE AS A
RECURRING, EVEN THREE MONTHS AGO
TO THE DATE WHEN THE UNITED
STATES SUPREME COURT ENTERED AN
ORDER IN THE VL CASE THAT WAS
PREVIOUSLY MENTIONED, IT STATED
THAT THE CLAUSE REQUIRING EACH
STATE TO RECOGNIZE AND GIVE
EFFECT, SO IT REQUIRES NOT JUST

RECOGNITION, BUT THE U.S. SUPREME COURT SPECIFICALLY SAID AND GIVE EFFECT TO VALID JUDGMENTS RENDERED BY COURTS OF SISTER STATES.

IT SERVES TO ALTER THE STATUS OF SEVERAL STATES AS INDEPENDENT FOREIGN SOVEREIGNTIES BE TREATED WITH NOR OBLIGATIONS CREATED UNDER THE LAWS OR BY OTHER JUDICIAL PROCEEDINGS OF OTHERS TO MAKE THEM INTO AN INTEGRAL PART OF A SINGLE NATION.

IT WENT ON EVEN MORE IMPORTANTLY TO DISCUSS THE ABILITY TO LATER ATTACK THESE JUDGMENTS IN A DIFFERENT STATE AND STATED A STATE MAY NOT DISREGARD THE JUDGMENT OF A SISTER STATE BECAUSE IT DISAGREES WITH THE REASONING UNDERLYING THE JUDGMENT OR DEEMS IT TO BE WRONG ON THE MERITS.

ON THE CONTRARY, THE FULL FAITH AND CREDIT CLAUSE OF THE CONSTITUTION PRECLUDES ANY INQUIRY INTO THE MERITS OF THE CAUSE OF ACTION, THE LODGE-- LOGIC OR CONSISTENCY OF THE DECISION OR THE VALIDITY OF THE LEGAL PRINCIPLES ON WHICH THE JUDGMENT IS BASED.

>> SO YOU WOULD AGREE BASED ON, YOU KNOW, THIS COURT WHEN THE STATE HAD A CONSTITUTIONAL BAN ON SAME-SEX MARRIAGE AND THERE WAS A VALID ADOPTION AGREEMENT IN A SAME-SEX MARRIAGE IN ANOTHER STATE, THAT THERE WOULD BE-- EVEN WHEN THERE WOULD BE A CONSTITUTIONAL AMENDMENT-- THAT THERE WOULD BE NO ABILITY OF A STATE COURT TO INVALIDATE A JUDGMENT OF A SISTER STATE BECAUSE IT IS AGAINST THE CONSTITUTION OF THE STATE OF FLORIDA?

>> YES.

SO THE JUDGMENT SPECIFICALLY BECAUSE THE JUDGMENT GETS A

DIFFERENT WEIGHT THAT SIMPLY A STATUTORY ACT OF ANOTHER STATE. SO A GAY MARRIAGE SITUATION BEFORE THAT BECAME RESOLVED LAW WAS ENTIRELY DIFFERENT BECAUSE IT MAINTAINED A DIFFERENT STATUS UNDER THE FULL FAITH AND CREDIT ANALYSIS.

BUT THE JUDGMENT--

>> WHAT WAS THE DIFFERENT ANALYSIS?

>> THERE WAS THE ROVING PUBLIC POLICY, THE NO-ROVING PUBLIC POLICY EXCEPTION.

THAT WAS ALWAYS SPECIFIC TO JUDGMENTS, AND JUDGMENTS HAD TO BE GIVEN THE HIGHEST WEIGHT BECAUSE THERE WAS AN ADJUDICATION AND ALREADY A HEARING ON THAT.

WHEN IT CAME TO LEGISLATIVE ENACTMENTS, THERE WAS A SEPARATE STANDARD, AND IN MY BRIEF-- AND I CAN PULL THAT CITATION-- THERE WAS A CASE I CITED WHICH SORT OF WENT THROUGH THAT ANALYSIS.

BUT THERE IS MORE OF AN ABILITY, LET'S JUST SAY THERE'S, FOR LACK OF BETTER TERM, A LITTLE BIT OF WIGGLE ROOM WITH RESPECT TO STATUTORY ENACTMENTS OF ONE STATE'S AND THE OBSERVATIONS BY ANOTHER.

BUT WHEN YOU GET TO JUDGMENTS, THERE IS NO ROVING PUBLIC POLICY EXCEPTION, AND THAT'S WHERE IT'S A BRIGHT LINE RULE.

>> WELL, I'M ASKING, IT'S PROHIBITED IN FLORIDA--

>> YES.

>> IT WAS, THERE WERE CASES THAT SAID THAT THAT WAS, THERE WAS NO PUBLIC POLICY EXCEPTION TO THE FULL FAITH AND CREDIT REQUIRED TO BE ACCORDED TO THE JUDGMENTS OF SISTER STATES.

>> AND I BELIEVE SUCH AS WE FOUND IN EMBREY WHICH WAS ABSOLUTELY CORRECT RULING, THAT

IN EMBREY THAT WAS THE EXACT SITUATION WHERE FLORIDA AT THAT TIME HAD A PUBLIC POLICY AGAINST GAY ADOPTION BUT RECOGNIZED THAT SISTER STATE ADOPTION DECREE AND GAVE IT FULL FAITH AND CREDIT DESPITE CONFLICTING FLORIDA PUBLIC POLICY.

AND WHAT'S INTERESTING--

>> AND THAT'S A STRONGER-- OH, THAT WAS A STATUTE.

I'M WONDERING ABOUT ANY CASES ABOUT GAY MARRIAGE?

>> I DON'T BELIEVE THAT THERE WAS ANY WITH RESPECT TO A JUDGMENT.

I THINK THE WAY THAT WOULD HAVE ACTUALLY MATRICULATED THEORETICALLY WOULD HAVE BEEN THROUGH THE ACCEPTANCE OF A DIVORCE DEGREE WHICH WOULD THEN BE IN TURN A JUDGMENT THAT HAD BEEN RECOGNIZED.

TO MY KNOWLEDGE, I'M NOT AWARE OF THAT BEING AN ISSUE THAT CAME THROUGH ANY COURT OF APPEAL IN FLORIDA.

BUT WITH RESPECT TO EMBREY IN PARTICULAR, THAT PARTICULAR CASE WHICH WAS REFERENCED, I FIND IT VERY INTERESTING BECAUSE EMBREY IS ACTUALLY VERY ANALOGOUS TO THE SITUATION THAT WE HAVE BEFORE THE COURT.

THAT WAS, AGAIN, THE GAY ADOPTION WHERE THE ADOPTION DECREE WAS DOMESTICATED IN FLORIDA WHERE IT WAS HONORED AND GIVEN FULL FAITH AND CREDIT AND ENFORCED.

AND SIMILAR TO THE CASE AT HAND WHERE THERE WAS A JUDGMENT FROM A SISTER STATE AND IT BECAME BEFORE THE COURT, IN EMBREY ATTORNEY MOSES HAS POINTED OUT THAT THERE WAS A STATUTE SPECIFICALLY THAT SAID THAT IT WAS TO BE HONORED.

IF THERE WAS AN ADOPTION DECREE. WELL, JUST LIKE THAT IN THE

UCCJA OF FLORIDA, WE HAVE A
SUBSECTION 61.526, EXCUSE ME,
WHICH CREATES A DUTY TO ENFORCE.
AND SIMILAR, IT EXPLICITLY
REQUIRES ENFORCEMENT.

AND THAT'S VERY SIMILAR.
IT WAS PREVIOUSLY BROUGHT UP
THAT THE PARENT KIDNAP
PREVENTION ACT MAY HAVE AN
APPLICATION.

I SUGGEST TO THIS COURT THAT IT
DOES.

THAT WAS ENACTED AS AN ADDENDUM,
CITED AS 1738A AS THE ADDENDUM
TO THE FULL FAITH AND CREDIT
STATUTE WHICH THEN IN TURNED AD
SPECIFICALLY FULL FAITH AND
CREDIT TO CHILD CUSTODY
DETERMINATIONS.

BUT WHAT'S INTERESTING ABOUT
THAT IS WHEN YOU READ THE
CONTENT OF THE STATUTE, IT
SPECIFICALLY REFERENCES CHILD--
VISITATION DETERMINATIONS.

IT SAYS CHILD CUSTODY
DETERMINATIONS OR VISITATION
DETERMINATIONS.

AND SPECIFICALLY ENUMERATES
VISITATION DETERMINATIONS.
AND IN ITS DEFINITIONS SECTIONS
WHEN IT CONSIDERS WHAT CLASS OF
CONTESTANTS WILL BE APPLICABLE
TO THAT STATUTE, SPECIFICALLY
ENUMERATES GRANDPARENTS.

GRAND PARENTS ARE LISTED WITHIN
THE BODY OF THE STATUTE ITSELF.
SO IT IS SPECIFICALLY
CONTEMPLATED THAT IT'S GOING TO
BE VISITATION, THAT IT'S GOING
TO BE GRANDPARENTS AND REQUIRES
ENFORCEMENT EXPLICITLY.

>> ARE YOU TALKING ABOUT THE
PARENTAL KIDNAPPING PROTECTION
ACT?

>> THAT IS THE TITLE, BUT THAT
IS NOT THE FORMAL TITLE.
THAT IS THE ORDINARY REFERENCE,
THE PKPA IS THE ORDINARY
REFERENCE GIVEN TO IT.
THE ACTUAL TITLE IS FULL FAITH

AND CREDIT OF CHILD CUSTODY DETERMINATIONS.

AND THAT, AGAIN, WAS AN ADDENDUM ADDED ON BECAUSE OF THE FACT THAT THERE WAS A MINORITY VIEW-- AND THIS IS WELL EXPLAIN INSIDE THE SUPREME COURT CASE OF THOMPSON FROM 1988 WHERE THERE WAS A CONFLICT OVER WHETHER OR NOT VISITATION DETERMINATIONS WERE ENTITLED TO FULL FAITH AND CREDIT BECAUSE THEY WERE SUBJECT TO MODIFICATION.

AND THE U.S. SUPREME COURT IN THOMPSON, BASED OFF 1738A, CAME OUT AND SAID IT'S A MANDATE IMPOSED ON THE STATES TO GIVE, TO FAITHFULLY ADMINISTER AND GIVE FULL FAITH AND CREDIT TO THE SISTER STATE DECREES.

THANK YOU.

>> THANK YOU FOR YOUR ARGUMENT. COUNSEL.

>> I WOULD LIKE TO BRING TO JUSTICE PARIENTE'S ATTENTION THE CASE OF BRANDON THOMAS V. BRANDON THOMAS.

THAT WAS A SAME-SEX COUPLE THAT WAS MARRIED IN ANOTHER STATE, AND IT'S OUT OF THE 2ND DCA. IT'S NOT FROM THIS COURT. BUT WHEN THEY CAME TO THIS STATE, ONE PARTNER WANTED A DIVORCE, AND THE OTHER PARTNER CLEVERLY ARGUED, WELL, BECAUSE FLORIDA DOESN'T RECOGNIZE OUR MARRIAGE, YOU CAN'T GET A DIVORCE FROM ME.

AND THE 2ND DISTRICT SAID, HEY, IF DIVORCE IS GOOD FOR HETEROSEXUALS, IT'S GOOD FOR HOMOSEXUALS, AND WE'RE GOING TO LET YOU GET DIVORCED HERE. THAT IS, I BELIEVE, THE HIGHEST COURT IN OUR STATE THAT HAS ADDRESSED THIS ISSUE.

BUT, AGAIN, WE ARE DEALING WITH--

>> YOU ADDRESS WHAT YOU JUST HEARD ABOUT THE PKPA?

>> AGAIN, THAT IS THE PARENT
KIDNAPPING PROTECTION ACT, AND
ALTHOUGH IT TALKS ABOUT
VISITATION, ANY PARENT-- I AM A
DIVORCED PARENT.
WHEN I HAVE CUSTODY-- I HAVE
PRIMARY CUSTODY OF MY CHILDREN.
MY FORMER HUSBAND HAS VISITATION
RIGHTS.

THAT IS WHAT THE PKPA IS ABOUT,
IT'S ABOUT PARENTS FIGHTING OVER
THE--

>> SO IN THE DEFINITION OF
CONTESTANT, IT DOESN'T REFER TO
GRANDPARENTS?

>> IT MIGHT BE SOMEONE
CONTESTING RIGHTS WITHIN IT.
I, UNFORTUNATELY, THOUGHT I
MIGHT HAVE THE STATUTE IN ANY
BOOK, SO CAN I HAVE SUBMIT A
SUPPLEMENTAL BRIEF AND IF I AM
WRONG ON MY ANALYSIS, I WILL LET
THE COURT KNOW MAYBE?

I DON'T SEE THAT THE PKPA
CONTROLS THE ISSUE HERE.
THE ISSUE HERE IS THE FULL FAITH
AND CREDIT CLAUSE.

THERE WAS RECOGNITION TO THE
COLORADO VISITATION ORDER, AND I
WOULD LIKE THE COURT TO KNOW
THAT MY CLIENT CONTESTED THE
JURISDICTION OF THAT COURT
SIGNIFICANTLY AND ADAMANTLY.
BUT SHE LOST THAT ISSUE AND,
UNFORTUNATELY, SHE DID NOT
APPEAL IT.

I WOULD ALSO LIKE THE COURT TO
KNOW THAT THIS IS NOT JUST A
FORMER DAUGHTER-IN-LAW THAT
DOESN'T LIKE THE FORMER
HUSBAND'S PARENTS.

THERE ARE SIGNIFICANT RELIGIOUS
DIFFERENCES BETWEEN THE
GRANDPARENTS AND THE MOTHER.

>> WERE THOSE KIND OF ISSUES
EXPLORED AT THE TIME OF THE
VISITATION ORDER WAS ENTERED?

>> EXTENSIVELY, YOUR HONOR, AND
THAT'S ANOTHER THING I'D LIKE TO
RAISE.

THERE WAS NO VISITATION GOING ON.

THE KIDS WERE NOT FLYING TO VISIT GRANDPARENTS PRIOR TO THE ENTRY OF THE ORDER BY THE COURT HERE IN FLORIDA.

IN FACT, THE DOWNS HAVE SOUGHT MAKE-UP VISITATION AND SANCTIONS AGAINST MY CLIENT--

>> NOW, IF I REMEMBER, YOUR OPPONENT SAID YOU CAME TO THE FLORIDA COURTS ONLY 13 DAYS OR SO AFTER THE ORIGINAL JUDGMENT WAS ENTERED.

SO I CAN SEE WHY THERE WOULD HAVE BEEN NO BACK AND FORTH AT THAT POINT.

>> WELL, THERE WAS A SUGGESTION BY MY OPPONENT THAT THERE WAS THIS CROSS-COUNTRY TRAVELING GOING ON, OR AT LEAST I MISUNDERSTOOD WHAT MY OPPONENT SAID.

IT WAS NOT GOING ON.

MY CLIENT MOVED TO DOMESTICATE THE JUDGMENT AS SOON AS THEY WERE GIVEN THOSE RIGHTS.

AND THE ARGUMENT WAS IT'S ONLY BEEN AROUND FOR 12 DAYS, HOW COULD THERE BE A SUBSTANTIAL CHANGE IN CIRCUMSTANCE?

MY CLIENT WAS ARGUING, NO, I LIVE IN A STATE THAT AFFORDS ME THE RIGHT TO DETERMINE WHO MY CHILD, MY CHILDREN HAVE VISITATION WITH.

THAT'S THE SUBSTANTIAL CHANGE IN CIRCUMSTANCES, AND NEITHER THE TRIAL COURT NOR THE APPELLATE COURT RECOGNIZED THAT.

THANK YOU.

>> OKAY.

THANK YOU FOR YOUR ARGUMENTS. THE COURT IS IN RECESS FOR TEN MINUTES.