

Local Essay Question #3

Brad and Angie were married in 2000 and divorced in 2010. They are both dual citizens of the United States and Great Britain. They have three (3) children, born in 2002 (age 14), 2006 (age 10), and 2008 (age 8).

According to their Marital Settlement Agreement which was incorporated but not merged into their Final Judgment, the parties share joint custody with Angie having physical placement. The parties agreed that Angie could return to Great Britain and that Brad would have all reasonable and liberal rights of visitation both in the United States and Great Britain. Pursuant to the terms of their Marital Settlement Agreement, the parties agreed that any custody, placement, visitation issues would remain under the Parental Kidnapping Prevention Act, the Uniform Child Custody Jurisdiction and Enforcement Act, and the Rhode Island Family Court.

Angie relocated to Great Britain with the minor children in 2012 and Brad visited them regularly in Great Britain. They spent one (1) month with him in Rhode Island each summer. The current issue arose when the children were with their father in August 2015. The two (2) older children told their father they wanted to stay with him in Rhode Island as they had been subjected to verbal and emotional abuse by their mother. Brad then filed a Motion in Rhode Island Family Court on an emergency basis to modify custody and placement and for an Order that Angie submit to a psychological examination. The Rhode Island Family Court granted the Motion to Modify Custody and Placement on an Ex-Parte emergency basis.

Thereafter, Angie filed a Motion to Dismiss on the ground that the Rhode Island Family Court lacked subject matter jurisdiction and because the children resided in Great Britain continuously since January 2012. She also moved to vacate the Ex-Parte Order. She also filed an action in Great Britain for relief and for a declaration that Great Britain is the place of habitual residence of the children and that court has jurisdiction in all matters pertaining to them.

QUESTIONS

1. Assuming the Rhode Island Family Court agrees to an expedited hearing on Angie's Motion to Vacate the Ex-Parte Order, how should the Rhode Island Family Court rule on jurisdiction and whether Rhode Island is an inconvenient forum to hear the case?
2. What facts are important for the Rhode Island Family Court to consider if it determines that it retains exclusive, continuing jurisdiction pursuant to the Uniform Child Custody Jurisdiction and Enforcement Act?
3. To what extent does the mutually agreed upon forum selection clause in the parties' Marital Settlement Agreement impact the Court's decision?
4. If the Rhode Island Family Court determines that it is an inconvenient forum, what factors will the Rhode Island Supreme Court consider on appeal?
5. Under what circumstances would the court in Great Britain assert jurisdiction?

*****END OF LOCAL ESSAY QUESTION 3*****