No. 19-79

IN THE
Supreme Court of the United States

DANA ALBRECHT,

Petitioner,

v.

KATHERINE ALBRECHT,

Respondent.

On Petition for a Writ of Certiorari to the
Supreme Court of New Hampshire

PETITION FOR A WRIT OF CERTIORARI

DANA ALBRECHT
Petitioner Pro Se
131 D.W. Hwy #235
Nashua, NH 03060
(603) 809-1097
dana.albrecht@hushmail.com

QUESTIONS PRESENTED

1. The Supreme Court of New Hampshire was asked to consider whether California law controls whether real property in California owned by a California trust is part of a New Hampshire marital estate. It declined to address this question of law. The question presented is: Does this constitute "a policy of 'hostility to the public Acts'" of a sister State?

2. The Third Circuit Court of Appeals recently "observed we will reach 'a pure question of law' even if not raised below, where refusal to reach the issue would result in a miscarriage of justice." See *Barna v. Bd. of Sch. Dirs. of Panther Valley Sch. Dist.*, 877 F.3d 136, 147 (2017). The question presented is: Whether, or under what circumstances, does the Due Process Clause require an appellate court to reach a "pure question of law" if it believes the question has not been fully considered below?

LIST OF ALL PROCEEDINGS

Dana Albrecht v. Katherine Albrecht
Ninth Circuit Family Division,
Nashua, New Hampshire
Case No. 659-2016-DM-00288
Decision Date: April 27, 2018 (App. 12a)
Date of Order Denying Motion for Reconsideration: June 6, 2018 (App. 38a)

State v. Dana Albrecht
Ninth Circuit District Division,
Nashua, New Hampshire
Case No. 459-2017-CR-05023
Decision Date: August 6, 2018
Notice of Decision: Finding of "Not Guilty." (App. 40a)

Dana Albrecht v. Katherine Albrecht
Supreme Court of New Hampshire
Case No. 2018-0379
Decision Date: April 27, 2018 (App. 3a)
Date of Order Denying Motion for Reconsideration: June 6, 2018 (App. 10a)

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Dana Albrecht respectfully petitions this Court for a writ of certiorari to review the judgment of the Supreme Court of New Hampshire in this case.

OPINIONS AND ORDER BELOW

The Supreme Court of New Hampshire's opinions (Case No. 2018-0379) are unpublished. *See App. 3a,10a*. The opinion of the Ninth Circuit Family Division Court, Nashua, New Hampshire (Case No. 659-2016-DM-00288) is unpublished. *See App. 12a,38a.*

JURISDICTION

The Supreme Court of New Hampshire entered its judgment on March 14, 2019 and denied a motion for rehearing and reconsideration on April 15, 2019. This Court has jurisdiction pursuant to *28 U.S.C. § 1257(a)*.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

Section One of the Fourteenth Amendment to the United States Constitution provides that "[N]or shall any State deprive any person of life, liberty, or property, without due process of law ..." Article Four,

Section One of the United States Constitution provides that "Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State." The relevant "public Acts" of the States are *Ca Fam Code § 752*, *Ca Fam Code § 770(a)(2)*, and *NH RSA 458:16-a*.

INTRODUCTION

This case concerns a property dispute over California real estate arising from the dissolution of a marriage by a New Hampshire court and the settlement of a California estate. Rights in immovable property are at issue.

California real estate was included in a marital estate by a New Hampshire family court for purposes of an "equitable division of property between the parties." See *NH RSA 458:16-a*.

The Supreme Court of New Hampshire affirmed the family court's decision.

This Honorable Court should review, and reverse, the lower court's decision.

STATEMENT OF CASE

A. Background

Petitioner Dana Albrecht and Respondent Katherine Albrecht (the "parties") were married in

California on November 4, 1996. They have four children.

Petitioner's mother, Myra Albrecht, owned 200 acres of unimproved rural land, APN 099-140-014-000, located in Shasta County, California, as "separate property" under *Ca Fam Code § 770(a)(2)*, henceforth referred to as the "California real estate."

The parties moved from San Jose, California to Hollis, New Hampshire in 2001.

On September 30, 2003, the California real estate was transferred into the "The David and Myra Albrecht Living Trust," governed by California law, and hereinafter referred to as the "trust estate."

Myra Albrecht passed away at her home in San Jose, California, on May 6, 2014. Consequently, Petitioner's father David Albrecht was the surviving trustee of the trust estate.

The terms of the trust estate provided for Myra Albrecht's "separate property interest," or the "California real estate," to be distributed to Petitioner. The trust estate did not provide for any property to be distributed to Respondent.

The surviving trustee, David Albrecht, has never distributed Myra Albrecht's "separate property interest" to Petitioner as the terms of the trust estate dictate. Consequently, legal title to the California real estate continues to be held by the trust estate and not by either or both parties.

B. Lower Court Record

The parties separated on April 8, 2016. Litigated divorce proceedings in a New Hampshire family court followed.

On April 15, 2016, Petitioner entered a petition for legal separation in the family court.

On June 5, 2017, both parties entered a partial final stipulation in the family court that, for purposes of the proceedings, the value of the California real estate was $160,000.

However, the parties did not agree on whether the California real estate should be included in the marital estate for purposes of property settlement upon dissolution of the parties' marriage.

The family court held five days of hearings in a bifurcated trial. On August 7, 2017 and August 9, 2017 the family court heard parenting matters, and on September 1, 2017 it entered a parenting plan.

With the family court's permission, on September 1, 2017, Respondent relocated with the parties' minor children from New Hampshire to Pasadena, California.

On September 30, 2017, both parties participated in an agreed-upon walk-through of the marital home in Hollis, New Hampshire with a realtor.

On October 5, 2017 and October 6, 2017, the family court heard financial matters. The latter

hearing was adjourned during Respondent's cross-examination.

On October 7, 2017, in a separate proceeding, Petitioner was arrested and charged with criminal trespass (*NH RSA 635:2*) and violation of privacy (*NH RSA 644:9*) in the district court arising from the events of September 30, 2017. Both are class A misdemeanors.

On February 14, 2018, the family court continued Respondent's cross-examination and concluded the trial with its fifth and final day of hearings.

On April 27, 2018, the family court entered its final divorce decree. Pursuant to *New Hampshire Family Division Rule 1.26 F.*, ("Motions to Reconsider"), both parties then entered motions for reconsideration and other post-decision relief in the family court.

On May 7, 2018, Petitioner entered his motion for reconsideration with the family court. On May 24, 2018, Respondent entered her late objection with permission of the court. On May 31, 2018, Petitioner entered his replication[1]. On June 6, 2018, the family

1 This replication was described by the Supreme Court of New Hampshire in its order dated March 14, 2019 as document (3) of the supplemental appendix, *i.e.* "the petitioner's replication to the respondent's objection to his motion for reconsideration." The court stated arguments made here were not preserved.

court ruled on outstanding pleadings for post-decision relief.

On July 2, 2018, a notice of appeal to the Supreme Court of New Hampshire was entered in the family court. An appeal to the Supreme Court of New Hampshire followed.

On August 6, 2018, Petitioner was found "Not Guilty" on all criminal charges by the district court.

On March 14, 2019, the Supreme Court of New Hampshire entered its judgment.

Both parties were represented by counsel in the trial court. Both parties were represented by counsel in the Supreme Court of New Hampshire until March 22, 2019.

C. Conflict of Laws

In its opinion, the Supreme Court of New Hampshire stated that the relevant New Hampshire statute, *NH RSA 458:16-a, I*, "does not require that a party have received a physical deed to property in order for the property to be included in the marital estate." Accordingly, it concluded "that the trial court correctly included the California real estate in the marital estate," citing *Flaherty v. Flaherty*, 138 N.H. 337, 340 (1994).

Under California law, "property acquired by a person after marriage by gift, bequest, devise, or descent" is considered "separate property." *Ca Fam*

Code § 770(a)(2). "Except as otherwise provided by statute, neither spouse has any interest in the separate property of the other" in California. *Ca Fam Code § 752*.

D. Preservation and "Waiver" vs. "Forfeiture"

The Supreme Court of New Hampshire stated that "the petitioner had failed to preserve his argument that California law governed whether certain real estate in California was part of the marital estate subject to division in the parties' New Hampshire divorce." The court further stated "Accordingly, we will not address the argument."

The Supreme Court of New Hampshire also stated that three documents in the trial court record did not establish that Petitioner preserved his argument. The court described these documents as:

> (1) a trial memo that states only that, under California law, inherited property is separate property and not subject to division upon divorce; (2) the petitioner's requests for findings, which request a finding that his mother owned the California real estate as separate property; and (3) the petitioner's replication to the respondent's objection to his motion for reconsideration. The replication[2] argues

2 This replication was entered in the family court on May 31, 2018. It was denied by the family court on June 6, 2018.

> that, under California law, inherited property is separate property and not subject to division and that "it is appropriate for the Court to consider the doctrine of 'Conflict of Laws in the United States' with regard to [the California real estate], taking into account both California and New Hampshire law."

Citing *O'Hearne v. McClammer*, 163 N.H. 430, 438-39 (2012), the Supreme Court of New Hampshire stated that an "argument raised for first time in reply[3] to objection to motion for reconsideration [is] not preserved."

The Supreme Court of New Hampshire did not state whether it believed Petitioner either forfeited or waived his argument. "Waiver is different from forfeiture. Whereas forfeiture is the failure to make the timely assertion of a right, waiver is the 'intentional relinquishment or abandonment of a known right.'" See *United States v. Olano*, 507 U.S. 725, 733 (1993).

On March 22, 2019, Petitioner instructed his counsel to enter a notice of withdrawal in the Supreme Court of New Hampshire. Petitioner then entered his notice of appearance, *Pro se*.

Notice of appeal was entered on July 2, 2018.

3 *Id.*

On March 22, 2019, Petitioner next entered a motion for rehearing and reconsideration in the Supreme Court of New Hampshire.

The court was then asked to consider[4] that the Third Circuit Court of Appeals "observed we will reach 'a pure question of law' even if not raised below, where refusal to reach the issue would result in a miscarriage of justice." See *Barna v. Bd. of Sch. Dirs. of Panther Valley Sch. Dist.*, 877 F.3d 136, 147 (2017). However, decisions by the Third Circuit Court of Appeals are not binding on the Supreme Court of New Hampshire.

On April 15, 2019, the Supreme Court of New Hampshire denied the motion for rehearing and reconsideration, thus affirming its prior judgment of March 14, 2019 "that the trial court correctly included the California real estate in the marital estate."

This petition for a writ of certiorari now follows.

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4 This was raised at ¶12 in Petitioner's Motion for Rehearing and Reconsideration entered on March 22, 2019 in the Supreme Court of New Hampshire. The Court denied Petitioner's motion on April 15, 2019.

REASONS FOR GRANTING THE PETITION

I. A question presented raises a conflict of laws between the sovereign States. Rights in immovable property are at issue.

New Hampshire and California are sharply divided on whether "property acquired by a person after marriage by gift, bequest, devise, or descent" is part of a marital estate.

In California, "property acquired by a person after marriage by gift, bequest, devise, or descent" is considered "separate property" in a marital estate. *Ca Fam Code § 770(a)(2)*. Whereas California requires that "except as otherwise provided by statute, neither spouse has any interest in the separate property of the other," *Ca Fam Code § 752* New Hampshire requires that "property shall include all tangible and intangible property and assets, real or personal, belonging to either or both parties." *NH RSA 458:16-a.*

II. In family law and estate cases, the question of how to determine the disposition of immovables located in a jurisdiction that differs from the forum is important and likely to be frequently recurring.

A. Trial courts are frequently asked to award property upon the dissolution of a marriage or the settlement of an estate.

In 2018, new marital filings in California (dissolutions, legal separations and nullities) accounted for 134,756 cases and probate (estate, guardianship, and conservatorship) filings accounted for 49,152 cases[5]. In New Hampshire, new family division filings in 2018 accounted for 19,843 cases and new estate filings alone in the probate division accounted for 6,993 cases[6]. Such cases frequently determine the disposition of property.

Consequently, in many such cases, the question of how to determine the disposition of immovables located in a jurisdiction that differs from the forum is a natural one.

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5 See 2018 Court Statistics Report, Judicial Council of California.

6 See "Data & Reports" from the New Hampshire Judicial Branch, published on-line at https://www.courts.state.nh.us/cio/data-and-reports.htm

B. The subject of property law conflicts has undergone recent academic scrutiny by the Harvard Law School.

In 2014, Joseph William Singer, Bussey Professor of Law at Harvard Law School wrote[7]:

> What law applies to real property? At one time the answer to this question was simple: the law of the situs. But then the choice-of-law revolution came and legal scholars began to see reasons to depart from the situs law rule. As interest analysis and the most-significant-relationship test developed, legal theorists undermined the logical and normative basis for such a simple solution to the choice-of-law problem. In recent years, however, the situs rule has been rehabilitated and increasingly defended by some scholars while others have continued to subject it to criticism. And in fact, the rule was never dislodged in practice and it remained the presumptive rule in the Second Restatement of Conflict of Laws. Even today, courts generally apply situs law to real property issues, although important exceptions have developed over time and some brave judges have deviated from the rule in certain classes of cases.

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7 See Singer, Joseph William. *Property Law Conflicts*. Washburn Law Journal, vol. 54, no. 1 (Fall 2014).

> Rather than argue for or against the rule, I propose to explain the circumstances under which situs law clearly should and clearly should not apply. I also propose to explain the cases that are hard because they present value conflicts generating good reasons both for application of situs law and for deviating from it.

Singer notes that "courts generally apply situs law to real property issues," although he notes that "important exceptions have developed over time." Consequently, this case offers this Court an opportunity to review whether the Supreme Court of New Hampshire's application of forum law in a real property dispute constitutes any such "important exception."

III. This Court has been sharply divided on when, and under what circumstances, a case reflects a special, and constitutionally forbidden, "'policy of hostility to the public Acts' of a sister State." It has also been sharply divided on issues of jurisdiction between the sovereign States.

Carroll's principle is that the Full Faith and Credit Clause proscribes a State from adopting a "'policy of hostility to the public Acts' of another State," as shown when "it has 'no sufficient policy

considerations to warrant' its refusal to apply the other State's laws." See *Carroll v. Lanza*, 349 U.S. 408, 413, 75 S.Ct. 804, 99 L.Ed. 1183 (1955).

In *Franchise Tax Bd. of Cal. v. Hyatt*, 136 S. Ct. 1277 (2016), this Court reversed a decision by the Supreme Court of Nevada, finding that:

> Insofar as the Nevada Supreme Court has declined to apply California law in favor of a special rule of Nevada law that is hostile to its sister States, we find its decision unconstitutional. We vacate its judgment and remand the case for further proceedings not inconsistent with this opinion.

However, at that time this Court stopped short of overturning *Nevada v. Hall*, 440 U.S. 410, 99 S.Ct. 1182, 59 L.Ed.2d 416 (1979), noting in its decision that:

> The board has asked us to overrule *Hall* and hold that the Nevada courts lack jurisdiction to hear this lawsuit. The Court is equally divided on this question, and we consequently affirm the Nevada courts' exercise of jurisdiction over California.

Subsequently, in *Franchise Tax Bd. of Cal. v. Hyatt*, 139 S. Ct. 1485 (2019), this Court then reversed itself and held that:

> "*Nevada v. Hall* is overruled; States retain their sovereign immunity from private suits brought in courts of other States."

IV. This Court has very recently become the Court of last resort able to review the disposition of California real estate in the settlement of a California trust estate, even though the issue has never been heard by a California court.

Prior to this Court's recent decision in *Hyatt* (2019), if rights in property in California acquired by succession or gift or rights in immovable property situated in California were at issue, *Nevada v. Hall* would have permitted a private citizen of California to bring suit against an agency of a sister State in a California court.

As this Court recently noted, the *Hall* majority's view "rested primarily on the idea that the States maintained sovereign immunity vis-à-vis each other in the same way that foreign nations do. Pp. 4-5." See *Hyatt* (2019). Similarly, a foreign state is normally, but not always, immune from the jurisdiction of the courts of the United States and of the States. See *28 U.S.C. § 1604*.

There is an exception for immunity for foreign states when "rights in property in the United States

acquired by succession or gift or rights in immovable property situated in the United States are in issue." See *28 U.S.C. § 1605(a)(4)*, as affirmed by this Court in *Permanent Mission of India v. City of NY*, 551 U.S. 193 (2007).

However, this Court's recent ruling in *Hyatt* (2019) provides no similar exception for a sister State. Consequently, an agency of a sister State may no longer be hailed into a California court by a private citizen of California, even if rights in property in California acquired by succession or gift or rights in immovable property situated in California are in issue.

Notably, this Court issued its decision in *Hyatt* (2019) on May 13, 2019, after the Supreme Court of New Hampshire denied Petitioner's motion for rehearing and reconsideration on April 15, 2019.

V. A question presented has divided the Third Circuit Court of Appeals and the Supreme Court of New Hampshire.

A. Each court has taken a substantially different approach when determining whether issues should be reached by an appellate court.

Concerning the preservation of issues for appellate review, this Court has stated in *Hormel v. Helvering*, 312 U.S. 552 (1941) that:

> Rules of practice and procedure are devised to promote the ends of justice, not to defeat them. A rigid and undeviating judicially declared practice under which courts of review would invariably and under all circumstances decline to consider all questions which had not previously been specifically urged would be out of harmony with this policy.

This Court has more recently visited this subject in *United States v. Olano*, 507 U.S. 725, 733 (1993), by distinguishing between "forfeiture" and "waiver."

In *Sklar Realty v. Town of Merrimack*, 125 N.H. 321 (1984), the Supreme Court of New Hampshire considered it:

> a general tenet of judicial review, that parties generally may not have judicial review of matters not raised in the forum of trial. See, e.g., *Daboul v. Town of Hampton*, 124 N.H. 307, 471 A.2d 1148 (1983). We require issues to be raised at the earliest possible time, because trial forums should have a full opportunity to come to sound conclusions and to correct errors in the first instance. See *State v. Sands*, 123 N.H. 570, 595, 467 A.2d 202, 217-18 (1983). This is only fair to the parties, the trial forums and the appellate courts.

In *O'Hearne v. McClammer*, 163 N.H. 430, 438-39 (2012), the Supreme Court of New Hampshire reiterated its position that:

> "issues must be raised at the earliest possible time, because trial forums should have a full opportunity to come to sound conclusions and to correct claimed errors in the first instance." *SNCR Corp. v. Greene*, 152 N.H. 223, 224, 876 A.2d 245 (2005) (quotation and brackets omitted).

In 2012, the Supreme Court of New Hampshire then further narrowed its view of preservation by also asserting that an argument raised for first time in reply to an objection to a motion for reconsideration in a trial court is not preserved, even though any such argument would still have been raised in the forum of trial prior to appeal. *Id.*

In *Barna v. Bd. of Sch. Dirs. of Panther Valley Sch. Dist.*, 877 F.3d 136, 147 (2017), adopting a different approach, the U.S. Court of Appeals for the Third Circuit stated that:

> We have thus observed that we will reach a "pure question of law" even if not raised below where refusal to reach the issue would result in a miscarriage of justice or where the issue's resolution is of public importance. *Bagot v. Ashcroft*, 398 F.3d 252, 256 (3d Cir. 2005) (quoting

Loretangeli v. Critelli, 853 F.2d 186, 189-90 n.5 (3d Cir. 1988)); see also *Barefoot Architect, Inc. v. Bunge*, 632 F.3d 822, 835 (3d Cir. 2011) (addressing a 'purely legal question' despite the appellant's failure to preserve the issue); *City of New York v. Mickalis Pawn Shop, LLC*, 645 F.3d 114, 140 (2d Cir. 2011) (excusing a forfeiture when the issue was 'purely legal' and the default results from inadvertence); *Council of Alt. Political Parties v. Hooks*, 179 F.3d 64, 69 (3d Cir. 1999) (reaching for the 'first time on appeal' an issue that 'concerns a pure question of law').

B. The Third Circuit Court's decision in *Barna* has received nationwide press coverage by the American Bar Association as a "Top Story."

On May 20, 2018, the American Bar Association, opining that an appellate court charitably distinguished inadvertent forfeiture from intentional waiver, published an article[8] stating that:

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8 See Pitzen, Thea C. *Appellate Review Allowed Despite Failure to Preserve Issue Below*. American Bar Association, May 20, 2018. Available at https://www.americanbar.org/groups/litigation/publications/litigation-news/top-stories/2018/appellate-review-allowed-despite-failure-to-preserve-issue-below/

> The U.S. Court of Appeals for the Third Circuit reviewed a question of law, although the appellant failed to preserve the issue. The court held the appellant forfeited the issue rather than waived it. ABA Section of Litigation leaders caution that practitioners at both the trial and appellate court levels should learn this distinction.

C. The question of whether, and under what circumstances, an issue is either clearly preserved for appellate review or may otherwise be reached is of immense public importance, and of national significance.

This Court has previously addressed this subject in both *Hormel v. Helvering*, 312 U.S. 552 (1941) and *United States v. Olano*, 507 U.S. 725, 733 (1993). More recently, it has observed that "appellate claims are likely to be ill defined or unknown at the filing stage." See *Garza v. Idaho*, 139 S. Ct. 738, 741 (2019). Even the Supreme Court of New Hampshire acknowledges that to preserve an argument for appeal the appellant need not have articulated his arguments to the trial court in precisely the same manner as he has on appeal. See *In the Matter of McAndrews & Woodson*, 193 A.3d 834, 840 N.H. (2018). Even if an issue has not been fully considered below, *Barna* demonstrates that it might still be

reached by an appellate court if the appellate court believes the issue has been "forfeited" rather than "waived." Indeed, even waiving an appellate claim does not necessarily always serve as an absolute bar to such a claim proceeding. See *Garza v. Idaho*, 139 S. Ct. 738, 741 (2019).

This case presents this Court with a vehicle to determine whether all or some portion of the Third Circuit's reasoning in *Barna* should be binding on all lower federal and State courts.

VI. The Supreme Court of New Hampshire's decision is wrong and deeply troubling.

A. The court declined to consider Petitioner's argument that California law controls whether real property in California owned by a California trust is part of a New Hampshire marital estate.

The court's refusal to reach this issue has resulted in a "miscarriage of justice." It did not rule on the merits of Petitioner's argument or perform any conflicts of law analysis.

B. The court failed to apply the required due process analysis.

The New Hampshire Supreme Court did not state whether it believed Petitioner either forfeited or waived his argument. See *United States v. Olano*,

507 U.S. 725, 733 (1993). Further, as *Hormel v. Helvering*, 312 U.S. 552 (1941) states:

> Rules of practice and procedure are devised to promote the ends of justice, not to defeat them. A rigid and undeviating judicially declared practice under which courts of review would invariably and under all circumstances decline to consider all questions which had not previously been specifically urged would be out of harmony with this policy.

"'[D]ue process,' unlike some legal rules, is not a technical conception with a fixed content unrelated to time, place and circumstances." See *Mathews v. Eldridge*, 424 U.S. 319, 334 (1976) (alteration in original). Rather, "[D]ue process is flexible and calls for such procedural protections as the particular situation demands." See *Id.* (internal citations omitted). Accordingly, resolution of the issue of whether Petitioner "establish[ed] that he preserved his argument" also "requires analysis of the governmental and private interests that are affected." See *Id.* (internal citations omitted). More precisely:

> The specific dictates of due process generally requires consideration of three distinct factors: First, the private interest that will be affected by the official action; second, the risk of an erroneous

> deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." See *Id.* (internal citations omitted).

The New Hampshire Supreme Court did not consider these three distinct factors. First, the parties' private interest was substantially affected. Second, there was substantial risk of an erroneous deprivation of such interest through the procedures used. Finally, the court should have considered the probable value of "additional or substitute procedural safeguards."

C. New Hampshire has no sufficient policy considerations to warrant its refusal to consider or apply California's laws.

Title to the California property is held by a California trust and neither party is a trustee.

In order to include the California property in the New Hampshire marital estate, the State of New Hampshire would require jurisdiction to order the conveyance of title to one or both of the parties.

The State of California has sole jurisdiction to determine the ownership of real property within its borders.

Petitioner's father, David Albrecht, is the sole surviving trustee of the estate trust. He is a legal resident of the State of California. No New Hampshire court has personal jurisdiction over Petitioner's father. Consequently no order or decree of a New Hampshire court may be enforced upon Petitioner's father except by comity with the State of California.

No New Hampshire court has subject matter jurisdiction to settle Petitioner's mother's estate or compel the distribution of property from the California estate trust.

Consequently, the State of New Hampshire lacks any jurisdiction to order the conveyance of title for the California property to either party.

Inclusion of the California real property, held by a California trust, where neither party is trustee, in the New Hampshire marital estate would constitute "a policy of hostility to the public Acts" of the State of California by the State of New Hampshire.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

DANA ALBRECHT
Petitioner Pro Se
131 D.W. Hwy #235
Nashua, NH 03060
(603) 809-1097
dana.albrecht@hushmail.com

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