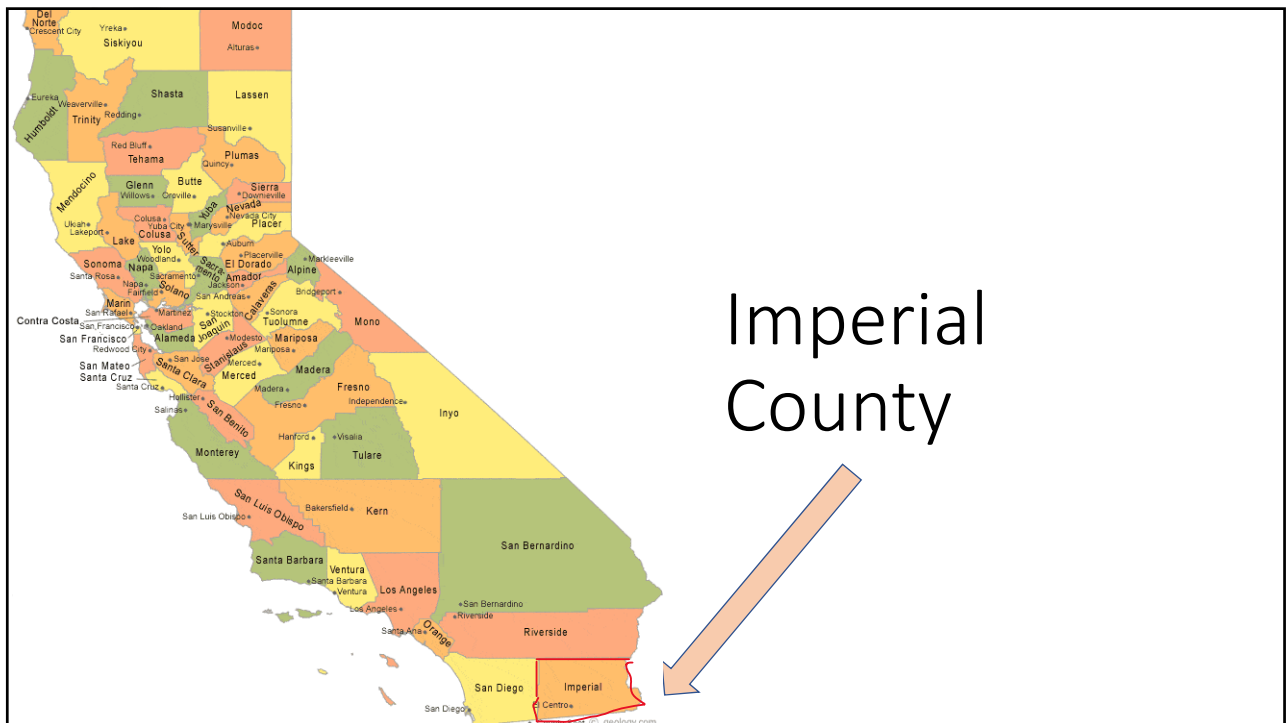


Learning Objectives

- FORMULATE how to utilize the letters rogatory process to notice foreign parents in a juvenile dependency case.
- CRITIQUE binational cases for procedural and substantive pitfalls in the juvenile dependency process, including notice violations.
- ROLE PLAY different courtroom arguments which can occur when parents are in foreign countries, and how to avoid multiple continuances.
- LOCATE resources on binational, Letters Rogatory, and immigration cases and identify contacts to seek out help.





Maria and Ruby

- How should the court and the Department proceed?
- What orders should the court make regarding jurisdiction at the Detention hearing? [Don't worry about federal findings]
- Who needs to be noticed and how?






UCCJEA
Temporary
Emergency
Jurisdiction

Family Code 3424:

A court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to, or threatened with, mistreatment or abuse.




- “If a California court has exercised temporary emergency jurisdiction pursuant to section 3424, subdivision (a), to protect a child present in the state from actual or threatened abuse or mistreatment, **that court may not address the merits of the dependency petition** or otherwise make a final child custody determination **until it properly asserts jurisdiction under the nonemergency jurisdiction provisions of the UCCJEA.**”
- “It is the responsibility of the juvenile court in the first instance to hold an evidentiary hearing to determine whether any basis exists under the UCCJEA for it to exercise jurisdiction and to make child custody orders beyond the temporary emergency orders authorized by section 3424.”

Foreign countries are always treated as different states.

- “The Act applies to juvenile **dependency** proceedings and international custody disputes...**Foreign countries** are treated as states for jurisdictional purposes.” *In re Sabrina H.* (2007) 149 Cal. App. 4th 1403.





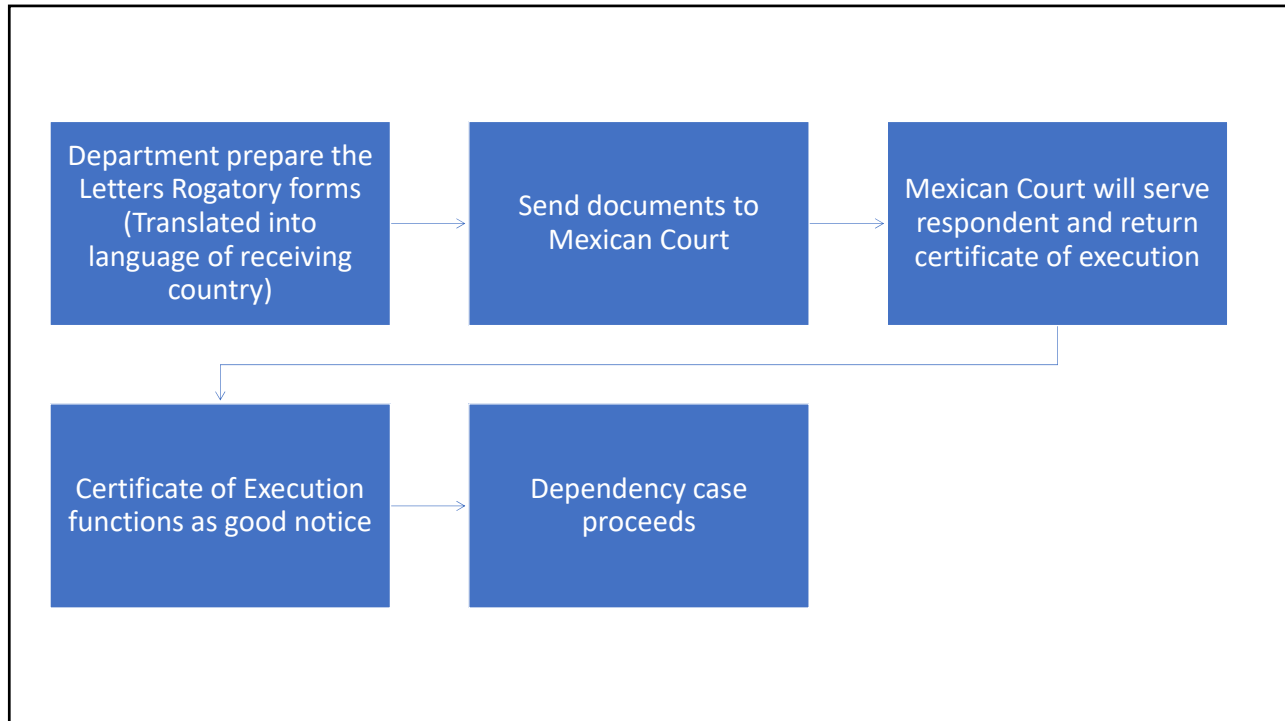
How are we going to notice in a foreign country?

• **LETTERS
ROGATORY**

Benefits of Letters Rogatory

- Faster and easier.
- Operates under specific treaty Law.
- Goes directly to the court in the jurisdiction.
- Less steps than a Hague notice.
- More in line with specific jurisdictional practices (i.e., Border and rural communities), than Hague notice.
- Hague Service Convention → 1965.
- IACLR → Signed 1976, and entered into force 1980.






What's an
Apostille?

AUTHENTICATION

As Clerk of the Court for the Superior Court of California, County of Imperial, I do hereby certify that the Honorable William D. Lehman, whose signature is affixed to the Request for International Judicial Assistance for Service of Process Abroad, annexed hereto, was at the time and date thereof, Judge of the Superior Court of California, County of Imperial; that the official acts and doings of said Judge are entitled to full faith and credit; and that the attestation to said Request is in due form of law. I further certify that the seal attached to said Request is the official seal of the Court.

WITNESS my hand and seal of said Court in the County of Imperial, State of California, on this 2nd day of August, 2019.

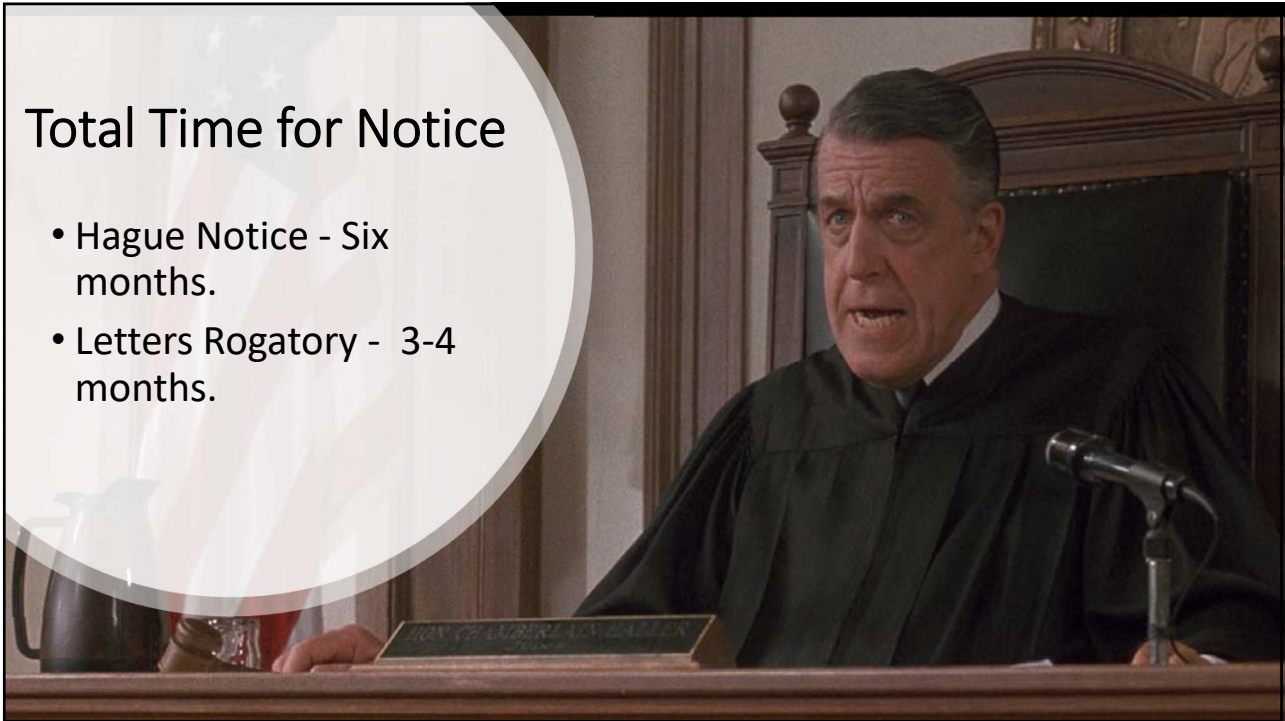


Maria Rhinehart

 Maria Rhinehart, Clerk of the Superior Court

Total Time for Notice

- Hague Notice - Six months.
- Letters Rogatory - 3-4 months.



Role Playing and Issue Spotting

- Veronica – County Counsel
- Brenda – Social Worker
- Judge Ulloa – Judge.
- Volunteer – Father's Counsel.

What are some of the issues that are brought up in the case?

General Appearances don't cure service defects

- “[Father’s] general appearance here does not impact the merits of his argument that he is entitled to new jurisdictional and dispositional hearings because he was improperly served; it simply means that if we conclude service was in fact improper, the court will have personal jurisdiction over Pedro to conduct a new jurisdictional hearing and other proceedings.” *In re Alyssa F.* (2003) 11 Cal. App. 4th 846.



If you don't properly serve under *Hague* or *Letters Rogatory* the proceeding WILL be overturned.

- “Failure to properly serve a party who resides outside the country under the Hague Service Convention renders all subsequent proceedings void as to that person...is true even when the party indisputably had **notice** of the action.” *In Re Alyssa F.* (again).

You can't use
Letters
Rogatory for
everything

A Letters Rogatory is only for “The performance of procedural acts of a merely formal nature, such as service of process, summonses or subpoenas abroad.”

NOT Enforcement of Judgment,
Substantive portions of the Case
Plan, DNA tests etc.

Placement of children in foreign countries

- “the placement of a dependent child in a **foreign country** is not necessarily inimical to the juvenile **dependency** law's goal of reunification and does not necessarily stifle frequent visitation for parents.
- We realize visitation is an important component of reunification. However, in communities that are located along the border...placement of the child in the neighboring country may result in shorter distances for the parent to travel than placement in another county or a different state.
- Further, placement of children with relatives or non-relative extended family members is preferred over foster care...In some cases, the child has no relatives other than those living in the **foreign country**. Prohibiting all placements of dependent children in a **foreign country** would deprive those children of being placed with relatives and non-relative extended family members, which is contrary to the legislative goal of promoting placement of dependent children with relatives by giving such placements preferential consideration. *In re Sabrina H.* (2007) 149 Cal. App. 4th 1403.

Video Placeholder

In Re M.S.

Be careful about
“whereabouts”
unknown on foreign
parents.

Letters rogatory was
used in this case with
NO objection or issues
by the appellate court.



Questions

Learning Points



Resources and Contact Information

- Veronica Henderson – veronicahenderson@handrlawoffices.com
- Brenda Vera – brendavera@co.imperial.ca.us
- [Preparation of Letters Rogatory](#) – Department of State
- [Letters of Rogatory](#) – Department of Justice
- Imperial County Superior Court – [Guide to Letters Rogatory](#)