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Memorandum

To: Drafting Committee for the Uniform Collaborative Law Act

CC: Observers and Dennis Cooper, Style Committee liaison

From: Andrew Schepard

Re: Revised Drafts of the UCLA (August 2009)

Date: July 27, 2009

Introduction and Enclosures

The Uniform Law Commission's approval puts the finish line for the UCLA in sight. I do, however, need your help so that the UCLA can cross it.

This memorandum transmits:

- (1) The UCLA as voted on the Uniform Law Commission with Preface and Commentary revised to reflect the changes made in the UCLA at the ULC meeting in Santa Fe (August 2009 Complete Draft), The proposed changes to the UCLA in enclosure (2) are not reflected in the August 2009 Complete Draft; and
- (2) The statutory language of the ULCA approved by the ULC, without Preface and Commentary, but with yellow highlighting and strikethrough designed to show you suggested stylistic changes to the current language (Proposed Additional Statutory Revisions). We need to complete review of these suggestions before the UCLA is transmitted to the Style Committee (see schedule below). You will find my thoughts on the suggestions (and some suggestions of my own) in comments by using MS Word's Comments feature The Proposed Additional Statutory Revisions will make sense only if you print this document out with the Comments.
- (3) A memorandum recommending a new choice of law provision and a definition of "State" be inserted in the UCLA. I think this is an important stylistic change to the UCLA, which I do not think will be controversial. To understand this memorandum, you may need to look at the Proposed Additional Statutory Revisions which will show you where these new clauses should be inserted in the UCLA in the Proposed Statutory Revisions.

Timetable

Working backwards, here is our timetable to complete the UCLA:

October 1, 2009- Final version of the UCLA, with Preface and Commentary, due at ULC headquarters.

September 10-13, 2009 – Style Committee meeting to review draft of UCLA with Preface and Commentary, with comments back to me sometime shortly thereafter.

September 1, 2009- Anticipated date of receipt of transcript of floor discussion of the UCLA by the ULC.

August 17, 2009- UCLA with Preface and Commentary due to ULC to transmit to Style Committee

August 7, 2009- **Your comments due to Yishai and me on the enclosures (more explanation below).**

What I Would Like You to Do

(1) *Review the August 2009 Complete Draft, Focusing on the Preface and Comments.*

The statutory text in the August 2009 Complete Draft is that approved by the ULC without change. The Preface and Commentary have, however, been revised to accommodate the changes in the statutory text approved by the ULC.

I prepared the revised Preface and Comments without the benefit of a transcript or detailed notes about what we agreed to put in them. If you have memories or thoughts on that subject, please indicate what additional comments should be included and where you suggest they go in. If you think something should be cut or modified, let me know. Please also comment on anything else in the draft for substance or style.

The more specific you can make your suggestions, with references to specific pages and lines and proposals for new language, the easier it will be for me.

I will revise the Preface and Commentary again after careful review of the transcript, but after the draft is sent to Style.

Please note that my students will be doing some additional research and reviewing the August 2009 Complete Draft for citation form. Don't worry about that end of things.

The final product (the October 1, 2009 version which will include Style's suggestions and final revisions to the Preface and Comments) will be published in the *Hofstra Law Review* special issue on collaborative law in addition to being available on the ULC website.

(2) Review the Proposed Additional Revisions to the Statutory Language

At this stage, all suggested revisions to the text of the UCLA must be stylistic, not substantive. I suggest a working definition of stylistic is "non controversial".

If I do not hear from you, I will assume the revisions proposed in the Proposed Additional Revisions to the Statutory Language are acceptable and I will include them in the draft I send to Style.

Please send any additional suggestions for revision with specific references to section, and page number.

(3) Review the Memorandum Recommending a Choice of Law Provision and a definition of "State" be inserted in the version of the UCLA transmitted to Style.

I would put this recommended change in the category of "stylistic" and hope you agree. If I do not hear from you, I will assume the proposals in the memorandum for new sections in the UCLA are acceptable and I will include them in the draft I send to Style.

Where to Send Your Comments

I will be out of the office from Wednesday, July 29th to Monday, August 10th (first to the ABA meeting in Chicago and then on a brief vacation). Please send your comments to both me and Yishai Boyarin (yboyarin@yahoo.com) who is again helping us keep this project on track (for those of you who haven't heard, Yishai received his LL.M in May and will head Hofstra Law School's mediation clinic starting in the Fall. His master's thesis will be published in the forthcoming special issue of the *Hofstra Law Review* on collaborative law). Yishai is working with my students who are conducting the additional research on the Preface and Commentary.

Please send your comments to us by August 7th.

Contact Yishai if you have any questions or concerns while I am gone.

If something unexpected comes up during this process of final revision, I will consult with Peter and Harry about what to do about it.

Thank you all again for your help and support and enjoy the rest of your summer. I look forward to finishing our work on the UCLA and seeing at least some of you at the Hofstra Conference in November.