

UCCJEA CHECKLIST FOR GUARDIANS AD LITEM

- 1. Find out whether any preexisting child custody orders have been issued in another state as soon as possible after the commencement of the proceeding.**
 - Without subject matter jurisdiction, a court lacks power to hear a case or determine a judgment. *People in Interests of T.L.B.*, 272 P.3d 1148 (Colo. App. 2012) (citing *Currier v. Sutherland*, 218 P.3d 709 (Colo. 2009))
 - The UCCJEA addresses subject matter jurisdiction and may be raised sua sponte by the appellate court even where not identified as an issue. *People ex rel. M.S.*, 2017COA60.
 - This gives even more reason to make sure you have an accurate finding regarding jurisdiction as a determination that the court lacked subject matter jurisdiction likely invalidates the termination regarding all parties.
 - Note that preexisting child custody orders may include permanent or temporary orders, including orders for grandparent visitation or temporary restraining orders. *C.R.S. 14-13-102(3)*
- 2. As soon as it is discovered that another state has issued a custody order, request that the court confers with the court that issued the order.**
 - If the other court wishes to retain jurisdiction, Colorado has only temporary emergency jurisdiction and any order issued must be limited in duration for a specified period not to exceed the length of time the court deems necessary for a party to get an order from the jurisdictional court. Failure to specify the order's duration may result in a vacated termination judgment. *See In re State ex rel. M.C.*, 94 P.3d 1220 (Colo. App. 2004)
- 3. Request that the communication between courts be recorded in its entirety and that you be permitted to participate in the communication.**
 - The court may legally make a record in a variety of ways so long as it is retrievable in perceivable form. This may include a minute order or even a memo created after the communication. *People in Interest of D.P.*, 181 P.3d 403 (Colo. App. 2008)
 - At the appellate level, this communication may become the most important part of the record and therefore, you want the record to contain a transcription of the most accurate record of the communication.
 - The court does not have to allow you to participate in the communication, but it must allow you to present facts and legal argument before a decision on jurisdiction is made. *C.R.S. 14-13-110(2)*

4. **Request orders that are very specific and that utilize the language of the UCCJEA and corresponding state statutes clearly, accurately and consistently.**
 - While a record of the communication is required, only one of the two courts need make the record.
 - It is possible that both courts may make a record or may issue orders regarding jurisdiction after communicating. If these conflict or use language that is unclear, it may present enough confusion for the appellate court to remand the matter for further proceedings and delay the time for permanency.
 - Make sure that you are very deliberate with your choice of language in your advocacy. For example, if you use the term “adjudication” make certain you are clear about whether you are referring to the adjudication of the child as dependent and neglected, or whether you mean to refer to adjudication of the issue at hand.

5. **If another state’s court is declining to exercise jurisdiction, ensure the decision is made pursuant to a statute substantially similar to C.R.S. §14-13-207 and that the declining court has considered all of the relevant criteria listed in the statute.**
 - While potentially impracticable, it would be ideal for the jurisdictions to confer at various times within the proceedings. This is because certain outcomes may be entirely unanticipated at the time of the initial communication or because the court initially stayed its jurisdiction under §14-13-207 but without intent that Colorado enter permanent orders.
 - If a court deems one of the criteria of §14-13-207 irrelevant, it may be helpful to request clarification of that finding on the record for appellate purposes, so that an appellate court doesn’t question whether the factor was missed.