

Hague Abduction Convention Before the U.S. Supreme Court: *Abbott v. Abbott*

On this blog, we have long noted the splits of authority among U.S. courts regarding the operation of the Hague Abduction Convention. (See [here](#), and [here](#).) A new cert petition in the United States Supreme Court brings one of these disagreements to the forefront.

In No. 08-645, *Abbott v. Abbott*, the issue is whether a *ne exeat* clause – which precludes a parent from taking his or her child out of the country without the other parent’s permission – is a “right of custody” for purposes of the Hague Convention on the Civil Aspects of International Child Abduction, thereby requiring the child’s return. The courts of appeals are not only divided on this question, but the approach taken by the majority of circuits is at odds with the approach employed by the overwhelming majority of foreign courts that have considered the question.

The [petition for writ of certiorari](#) currently pending before the court makes a strong case for a grant. And, just last week, the Permanent Bureau of the Hague Conference on Private International Law – which is responsible for monitoring the implementation of the Convention – filed an [amicus brief](#) supporting the petition.

The [brief in opposition](#) to certiorari, and the [reply](#) thereto, have also been filed.

Updates on this case are posted on the [SCOTUSblog](#). We will mirror those updates when they become available.