Franco-American Lis Pendens

It is not good to be a Franco-American couple these days.

Yesterday, the French supreme court for private and criminal matters (*Cour de cassation*) delivered yet another judgment on parallel divorce proceedings in the U.S. and in France.

The story was pretty much the same as in a case on which I have previously reported. The French husband sued in France, the American wife sued in New York. This time, however, the claims were not exactly the same. It seems that divorce was only sought in France, while a ruling on maintenance and parental responsibility was sought in both fora.

As it understood that it was the only one seized of the divorce action, the French court ruled on it and granted the divorce. However, on the maintenance and the parental responsability issues, the French court found that it had been seized second and declined jurisdiction on the ground of *lis pendens*. The husband appealed, but by the time the Paris Court of Appeal heard the case, the New York court had issued final judgments. The French Court of appeal held that, pursuant to the French common law of judgments, the American judgments were to be recognized. In particular, they were certainly not contrary to public policy for the sole reason that they had awarded what the husband considered too high a sum for maintenance.

In a judgment of december 16, 2009, the *Cour de cassation* confirmed the decision of the Paris Court of appeal.

The dates when each court was seized were disputed. But the *Cour de cassation* held again that whether the French court had been seized first was irrelevant for the purpose of assessing whether the American judgments should be recognised in France.