

1-1-1988

# International Estate Planning and Probate: A Legal Bibliography of Selected Sources

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## Recommended Citation

Michele A. Maracini and Donna E. Miller, *International Estate Planning and Probate: A Legal Bibliography of Selected Sources*, 19 U. Miami Inter-Am. L. Rev. 469 (1988)

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## INTERNATIONAL ESTATE PLANNING AND PROBATE: A LEGAL BIBLIOGRAPHY OF SELECTED SOURCES

A preceding article initially identified the phenomenon causing the growth of foreign acquisition of assets in the United States. The widespread increase of both resident and nonresident aliens in this country has given rise to an unprecedented number of legal questions involving the probate of estates crossing national boundaries, questions often complicated as a result of transnational divorces and separations. Consequently, there is an increasing demand for U.S. attorneys, who practice estate planning and probate law, to develop an expertise in this area of the foreign legal system as well as in the conflict of laws rules regarding jurisdiction and choice of law. The attorney must also be knowledgeable regarding the procedural implications of the case.

This bibliography has been compiled to provide a source of information useful to the practitioner in these and related areas of the subject matter. The sources were restricted to the years 1985 to the present and geographically to the United States, Mexico, Canada, Latin America and Europe. The bibliography was further limited to works originally published in English.

I.	ALIMONY AND MAINTENANCE	471
II.	CIVIL PROCEDURE	471
III.	CONFLICT OF LAWS	472
	A. General	472
	B. Marriage and Divorce	473
	C. Probate and Practice	473
IV.	DECEDENT'S ESTATES: INTERNATIONAL ASPECTS	473
V.	DIVORCE	474
	A. International Aspects	474
	B. Law and Legislation	475

470	INTER-AMERICAN LAW REVIEW	[Vol. 19:2
	C. Litigation	475
	D. Mediation: Conferences and Congresses	476
	E. Separation and Annulment	476
VI.	ESTATE PLANNING	476
	A. General	476
	B. International Aspects	476
VII.	EXECUTORS AND ADMINISTRATORS	476
VIII.	FAMILY LAW	477
IX.	FOREIGN JUDGMENTS	477
	A. General	477
	B. Analysis	477
	C. Law and Legislation	477
X.	INHERITANCE AND SUCCESSION	478
	A. General	478
	B. International Aspects	478
XI.	INHERITANCE AND TRANSFER TAX: INTERNATIONAL ASPECTS	479
XII.	JURISDICTION	479
XIII.	MARRIAGE	479
	A. General	479
	B. Property	479
XIV.	PRIVATE INTERNATIONAL LAW: DIVORCE, SEPARATION AND ANNULMENT	479
	A. Divorce, Separation and Annulment	479
	B. Jurisdiction	480
	C. Procedure	480

1987-88]	BIBLIOGRAPHY	471
XV.	PROBATE LAW AND PRACTICE	480
XVI.	TAXATION	480
	A. General	480
	B. Income	487
	C. Inheritance, Estate and Gift	488
	D. Property	489
XVII.	TREATIES	489
XVIII.	TRUSTS	490
XIX.	WILLS	490
XX.	CASES	490

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*In re Estate of Mario Sanchez* (on appeal to 3d Dist. Ct. App.) Miami Review, Mar. 31, 1988, at 1. Mario Sanchez, a Venezuelan millionaire, died in 1983 without a will. He did, however, deposit almost \$2 million in a Miami bank. The money was put in his name "in trust for" (ITF) his two sons, Mario Mack Sanchez and Mario Jose Sanchez. The signature cards for the account contained a provision that Florida law would govern.

After Sanchez died, twelve Venezuelans laid claim in Dade Circuit Probate Court as heirs. They claimed that they, too, were Mario Sanchez's children and under Venezuela's forced heirship law were entitled to equal shares of the \$2 million.

Probate Judge Francis Christie agreed with the twelve alleged heirs and on December 30, 1987, he granted their summary judgment motion and ordered the money to be divided among all fourteen claimants. In Judge Christie's opinion, Sanchez lacked the legal ability to create a valid trust for his two sons in Miami, and therefore, his actions were illegal and constituted a fraud on the remaining twelve. Judge Christie also found that neither Florida, its citizens nor its banks had any interest in the disposition of the funds.

This case is presently on appeal to the Third District Court of Appeal. Some of the issues on appeal include what Venezuelan law dictates and the legal status of the twelve alleged illegitimate children. While the Third District Court decides which law governs the disposition of the money, the Florida Legislature will be considering a bill introduced by State Senator Jack Gordon (D-Miami Beach). The proposed law, which is modelled after a New York statute, would allow the following: (1) parties involved in contracts of \$250,000 or more would be able to specify that Florida law gov-



erns any disputes and (2) in transactions in excess of \$1 million, the parties would be able to designate that Florida courts hear any disputes. It has been argued that the proposed law will give some certainty of what law applies and also reduce litigation expenses to determine jurisdiction and the meaning of its laws.

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The authors wish to express their kind appreciation to Professor Warren Rosmarin, Assistant Librarian for Public Services, and Professor Amber Lee Smith, Foreign and International Law Librarian, at the University of Miami School of Law for providing substantive guidance in the development of this bibliography.

\* I dedicate this article to my loving husband, Manny Maracini, for his unlimited patience and commitment during the past three years.

\*\* I would also like to dedicate this article to my parents, Saul and Helen Miller, for their love and support throughout my law school experience.