Federal Law, The Courts, & Interstate Compacts
1. The Federal APA does not apply to compact agencies—at least not directly.
2. Getting into and staying in Federal court is uncertain.
3. Courts generally do not treat compact agencies as federal agencies, but courts do treat compacts as state agencies for some purposes.
4. Courts sometimes apply state law to compacts and sometimes don’t; the law is messy.
5. The Supreme Court considers traditional contract law principles when interpreting compacts.
6. Other courts typically consider other factors, such as uniformity.
7. Compact rulemaking is common and courts generally defer to compact agency rules.
Other Emerging Issues In Interstate Compacts
8. Look for developments in politically charged subject compacts.
9. Federal appointees to compact agencies might someday be considered “Officers of the United States” under the Appointments Clause.
Interstate Compact Hot Topics
10. Gillette v. Franchise Tax Board (Cal. 2015)
Gillette and its progeny are an aberration—so we hope.
Interstate Compacts Summit
2017

December 14-16, 2017

Las Vegas, NV
For More Information On Interstate Compacts

Colmon Elridge III
Director,
CSG’s National Center for Interstate Compacts
(859) 244-8068
celridge@csg.org

Rick Masters
Special Counsel
CSG’s National Center for Interstate Compacts
(502) 582-2900
rmasters@csg.org

Visit CSG’s National Center for Interstate Compacts online at:
www.csg.org/ncic
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