

February 12, 2024

Enforcing Sister-State and Foreign Judgments in New York

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To us, New York remains the center of the world. Certainly, it is a financial powerhouse, with large institutions headquartered in New York City itself. Given the significant assets in the state and the broad post-judgment discovery mechanisms afforded to judgment creditors here – including information subpoenas and restraining notices – creditors with money judgments may consider enforcing judgments against the assets of debtors located in New York.

The predicate to enforce money judgments issued in other states is Article IV of the United States Constitution. This mandate full faith and credit in fact precludes inquiry into the merits of the sister-state judgment, the logic of the decision underlying it the principles on which it is based.ⁱ In a similar vein, New York courts will also afford recognition to international rendered in foreign countries under the doctrine of comity.ⁱⁱ

Sister-State Judgments

The procedure to domesticate and enforce a sister-state judgment is straightforward if the defendant had appeared in the action resulting in the judgment. Article 54 of New York’s CPLR (known as the “Uniform Enforcement of Foreign Judgments Act”) governs.

As provided by CPLR 5402(a), the judgment creditor need only file a exemplified or certified copy of the sister-state judgment, along with an affidavit that lists the name and last known address of the judgment debtor and states that the judgment was not obtained by default (*i.e.*, a failure to appear) or confession (*i.e.*, an acknowledgment of the debt), the judgment is unsatisfied in whole or part, with the amount remaining unpaid, and that enforcement of the judgment has not been stayed. Once the judgment has been domesticated, it will have the same effect as a judgment rendered in the state, and the creditor can enforce it like any other New York money judgment. *See* CPLR 5402(b).

If the judgment was obtained by default, the process is bit more involved. The creditor may not simply register the judgment. Rather, it must commence a plenary action in a New York court, either by filing a summons and complaint or a motion for summary judgment in lieu of complaint. *See* CPLR 5406. The latter procedure enables the creditor to obtain a judgment while avoiding the discovery phase of the case, which is the most costly and time-consuming aspect of litigation. *See* CPLR 3213(b).

The motion for summary judgment in lieu of complaint brings the validity of the judgment to a head immediately. In short, it asserts, “Here is a judgment against the defendant; there is no triable issue of fact that it is valid, accurate in the amount, remains unpaid, and the defendant has no defense.” If the defendant debtor fails to raise a triable issue of fact that it has a defense to the debt, the court will grant the motion and domesticate the judgment. It is an efficient process, and New York courts routinely grant such motions.ⁱⁱⁱ

Foreign Judgments

The process to recognize judgments rendered in foreign countries is similar. Article 53 of the CPLR (“Recognition of Foreign Country Money Judgments”) governs. The plaintiff commences an action by filing a motion for summary judgment in lieu of complaint. CPLR 5304 provides that a New York court should recognize and domesticate the foreign judgment based on comity, unless the judgment was obtained in a judicial system without the attributes here, *i.e.*, of due process, impartial tribunals, and jurisdiction requisites, or unless the judgment was obtained through fraud or is otherwise against the public policy of New York.^{iv}

Abu Dhabi Commercial Bank PJSC v. Saad Trading is informative. The plaintiff was a bank incorporated under the laws of the United Arab Emirates which obtained a \$40 million judgment in England against a limited partnership formed under the laws of the Kingdom of Saudi Arabia. In affirming the trial court’s domestication of the judgment, the First Department noted that a foreign country judgment is “conclusive between the parties,” unless “a ground for nonrecognition under CPLR 5304 is applicable.”^v There was no ground there. Moreover, alleged inconvenience was not a ground either, as there was nothing to defend, since “the merits were decided in England.”^{vi}

Takeaway

To obtain satisfaction, at times, judgment creditors may need to domesticate judgments in New York. The procedures vary slightly depending on the circumstances, but they are streamlined and efficient. As a result, New York is a generous forum for judgment creditors to enforce their judgments against the assets of corporate debtors here — and be made whole.

ⁱ *Fautleroy v. Lum*, 210 U.S. 230 (1908). The merits of a judgment of a sister state may not be collaterally attacked, though a judgment debtor may challenge the judgment on the basis of lack of personal jurisdiction. *JDC Fin. Co. I, L.P. v. Patton*, 284 A.D.2d 164, 166 (1st Dept. 2001).

Once personal jurisdiction is raised, the judgment creditor has the burden of proving jurisdiction. *Ziperman v. Frontier Hotel of Las Vegas*, 50 A.D.2d 581 (2d Dept. 1975).

ⁱⁱ *CIBC Mellon Trust Co. v. Mora Hotel Corp.*, 100 N.Y.2d 215 (2003); *Abu Dhabi Commercial Bank PJSC v. Saad Trading*, 117 A.D.3d 609 (1st Dept. 2014).

ⁱⁱⁱ *Ho v. McCarthy*, 90 A.D.3d 710, 711 (2d Dept. 2011) (affirming grant of motion for summary judgment in lieu of complaint to domesticate New Jersey judgment); *Buckeye Retirement Co., LLC, Ltd. v. Lee*, 41 A.D.3d 183 (1st Dept. 2007) (trial court erred in denying motion to domesticate a Florida judgment); *Cadle Co. v. Tri-Angle Assocs.*, 18 A.D.3d 100, 103 (1st Dept. 2005) (reversing trial court’s denial of plaintiff’s motion to domesticate Connecticut judgment entered on a default).

^{iv} *Sung Hwan Co. Ltd. v. Rite Aide Corp.*, 7 N.Y.3d 78, 82 (2006); *Abu Dhabi*, 117 A.D.3d at 609, 610 (1st Dept. 2014).

^v *Abu Dhabi*, 117 A.D.3d at 613.

^{vi} *Id.*