

Adventures in Domesticating Credit Judgments

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Sometimes, getting a judgment is only half the battle. Collecting on that judgment can prove an entirely different challenge. This is especially true when the judgment is entered in a court in one state, but the person or company against whom the judgment was entered is in another state. Recently, in a case with very unique facts, *The State ex rel. Ford v. Ruehlman*, 2016 Ohio 3529, the Ohio Supreme Court clarified the exact procedures to be used in domesticating judgments from other states in Ohio. Importantly, this case clarified that, after securing a judgment, a judgment creditor need only comply with the statutory requirements, and that the courts cannot impose additional impediments to recovery on a judgment creditor.

The saga began with a class action lawsuit in Kentucky. The action was settled for \$200 million, with the clients receiving only \$46 million. The clients were not informed that, in the settlement, the class of plaintiffs would be voluntarily decertified and their claims dismissed with prejudice. The clients later sued the attorney, Chesley, in Kentucky state court, and the Kentucky court found for the clients and awarded them a judgment of \$42 million. Chesley filed several motions to set aside or vacate the Kentucky judgment, but all were denied. Chesley's former clients were represented by attorney Ford in the Kentucky state court suit.

Roughly three months after the Kentucky court verdict was finalized, Chesley filed suit in the Hamilton County (Ohio) Court of Common Pleas against Ford and the approximately 400 former clients that Ford represented in the Kentucky case. Chesley filed this suit before any efforts had been taken to domesticate the Kentucky judgment in Ohio. The relief Chesley sought included an injunction to prevent domestication of the Kentucky judgment until 90 days after Chesley was informed of the exact amount owed to each judgment creditor and the exact amount collected on behalf of, and distributed to, the judgment creditors. The judge granted the relief sought by Chesley in full, and later extended his ruling to also bar Ford from serving discovery on Chesley in Ohio. The parties engaged in some procedural maneuvering which saw the Ohio case removed to federal court and then sent back to the Ohio state court.

When the case was returned to the Ohio state court, proceedings continued in both the Ohio state court case and the still-ongoing Kentucky state court case. The two proceedings openly conflicted with one another, including an order from the Kentucky state court requiring that an accounting firm respond to a subpoena and a conflicting ruling from the Ohio state court that the subpoena was a breach of the injunction in the Ohio state court case. Similar disputes arose over discovery requests issued to Chesley's law firm in the Kentucky state court case. Chesley also used the Ohio state court

case to block an arrest warrant issued for him in the Kentucky state court case. Ultimately, Ford filed suit in the Ohio Supreme Court seeking a writ of prohibition and mandamus against the Hamilton County judge. While the case was pending before the Ohio Supreme Court, Ford filed a collection case against Chesley in Ohio

As a threshold issue, the Ohio Supreme Court had to decide whether it could hear Ford's lawsuit at all. The issue was that Ford had been dismissed from the Ohio state court case and was no longer a party to that action. Nonetheless, the Ohio Supreme Court held that Ford could maintain an action against the Hamilton County judge because writs of prohibition can issue whenever there is an exercise of judicial power without authority and no adequate remedy in the ordinary course of law. In finding that Ford's complaint to the Ohio Supreme Court met this standard, the Ohio Supreme Court closely examined the process for domesticating a judgment rendered in another state in Ohio for the purpose of collecting on that judgment.

Ohio, like many other states, has adopted the Uniform Enforcement of Foreign Judgments Act (the "Act"). The Act sets out the procedural process for domesticating a judgment from another state in Ohio. The goal of this statutory procedure is to give full faith and credit to judgments of other states, as required by the United States Constitution. The statutory process is to file an authenticated copy of the judgment from the other state's court. The judgment creditor, or the attorney of the judgment creditor, must file an affidavit giving the addresses of both the judgment debtor and the judgment creditor. The judgment creditor must also file a praecipe with the clerk of courts instructing the clerk to give notice to the judgment debtor of the collection proceedings. Finally, the party seeking to collect on the judgment must wait thirty days after filing the out of state judgment in Ohio before seeking to begin collections activities in Ohio.

Importantly, the Ohio Supreme Court found that these statutory procedures were the only requirements to a collection action, and that an Ohio state court cannot create additional hurdles to engaging in collections efforts. In fact, the Ohio Supreme Court ruled that an Ohio state court does not have jurisdiction to hear a case like the one Chesley filed, because Chesley filed his suit before any collection action was filed and it is only through the filing of a collection action that an Ohio state court acquires jurisdiction over the out of state case. As a result, the Ohio Supreme Court ordered the Hamilton County judge to vacate his orders, but refused to dismiss the Hamilton County case or order the Hamilton County judge to recuse himself, finding that the Ohio Supreme Court lacked authority to grant either remedy. Recusal is discretionary, though a party can file an affidavit of disqualification to seek to disqualify a judge from hearing a case.

There are several significant takeaways from this case. The first is that proceedings which begin in one state may require proceedings in another state in order to collect on a judgment. That highlights the importance of having legal counsel who can proceed against judgment debtors in multiple states, as is necessary. The second takeaway is that collecting on an out of state judgment is a consistent statutory process that cannot be altered by a court. Though it may be a lengthy process, it is a known quantity and an effective means of collecting on an out of state judgment, especially when the attorney handling the collections action is familiar with the process. A third takeaway is the importance of securing, or contesting, the underlying action. As this case shows, once the judgment is entered, proceedings in another state cannot be used to impede or hinder collection efforts or to set aside the original judgment. This makes securing a valid judgment crucially important for a judgment creditor, and defending against such an action crucially important for a judgment debtor. Simply because the judgment is rendered in another state will not prevent the collection upon that judgment in the debtor's home state.

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