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LOFARO
& REISER
ATTORNEYS AT LAW

New Jersey Lawyers

Website: www.njlawconnect.com

Tel: (201) 498-0400

Fax: (201) 498-0016

55 Hudson Street

Hackensack, New Jersey 07601



ENFORCEMENT OF FOREIGN JUDGMENTS IN NEW JERSEY: AN OVERVIEW

By: Glenn R. Reiser, Esq.

Assume the following scenario: Company A (“A”) maintains a principal office in New York. Company B (“B”) maintains its principal office in New Jersey. B orders goods from A, accepts delivery but refuses to pay A. The purchase order and its terms and conditions provide A with the right to file suit against B in New York State. A exhausts its efforts to collect the debt and instructs its lawyer to file suit against B in the Supreme Court of New York. The suit is filed. B ignores the lawsuit and the Court enters a default judgment in favor of A and against B for the sum of \$25,000.00. A now wants to enforce its judgment against B, however the New York sheriff says it is without authority to seize assets of B located in New Jersey. Is A without a remedy to collect its debt against B? Fortunately, the answer is “no”, for A can domesticate or record its New York judgment in the Superior Court of New Jersey and, subject to the satisfaction of certain conditions, proceed to enforce the judgment as if it were originally filed in the State of New Jersey.

This article addresses the procedure for recording a judgment obtained from a foreign jurisdiction in New Jersey. The Uniform Enforcement of Foreign Judgments Act (*N.J.S.A. 2A:49A-25 et seq.*)ⁱ permits a judgment, decree, or order of the United States or of any other Court that is entitled to full faith and credit in this State to be filedⁱⁱ with the Clerk of the Superior Court of New Jersey. The Clerk shall treat the foreign judgmentⁱⁱⁱ in the same manner as a judgment of the Superior Court of this State. Upon recording, the Clerk will issue a notice to the defendant providing 14 days during which the defendant may file an objection to the judgment. No execution of process can occur during that 14-day period.

The judgment creditor and/or his/her attorney must submit an Affidavit that attests to specific, including the date of entry of the foreign judgment, whether the

judgment was entered by default, whether the time to appeal the judgment has expired, if whether the time to vacate the judgment (if entered by default) has expired, and whether the defendant has attempted to stay execution of the judgment in the court of original jurisdiction.^{iv}

Upon “recording” or “docketing” of the judgment it becomes a lien against all real estate owned by the judgment debtor that is located in New Jersey. In addition, once the foreign judgment has been docketed, the judgment creditor can take whatever action is necessary and/or appropriate under New Jersey law to effect satisfaction of the judgment, including the issuance of Information Subpoenas, Orders for Discovery, and/or Writs of Execution.

The defendant has the right to request the Superior Court of New Jersey to stay execution of the judgment, including instances where the defendant demonstrates that a valid appeal of the underlying foreign judgment is pending in the court of original jurisdiction.^v

The numbered steps listed below outlines the steps that need to be taken by the judgment creditor to have its foreign judgment docketed with the New Jersey Superior Court.

STEP 1:
**OBTAIN AN EXEMPLIFIED
(AUTHENTICATED) COPY OF THE
FOREIGN JUDGMENT WITH THE SEAL
OF THE ISSUING COURT AFFIXED
THERE TO.**

STEP 2:
**ATTACH AN AFFIDAVIT
FROM THE JUDGMENT CREDITOR OR
THE JUDGMENT CREDITOR’S
LAWYER (Form A).**

The affidavit must set forth:

- A. The name and last known address of the creditor;
- B. The name and last known address of the debtor;
- C. The date and amount of the **judgment**;
- D. Whether the time to appeal the **foreign judgment** has expired in the court of origin;
- E. Whether the court of origin has granted a stay; and
- F. Whether or not the **foreign judgment** was entered by default. If the **foreign judgment** was entered by default, the affidavit must indicate the date under the rules of the court of origin for vacating the default with a copy of the cited court rule.

Note: Pursuant to **New Jersey Court Rule 1:4-4(b)** a certification may be used in lieu of the affidavit.

Note. Annexed as “Form A” is a sample affidavit for informational purposes. Affiants are responsible that all statements in supporting affidavits are true and accurate.

**STEP 3:
MAKE A CHECK
OR MONEY ORDER PAYABLE TO CLERK
OF THE SUPERIOR COURT IN THE
AMOUNT OF \$35.00.**

This is the fee for filing your papers.^{vi}

**STEP 4:
MAIL OR DELIVER
THE DOCUMENTS
TO THE NEW JERSEY
SUPERIOR COURT CLERK'S
OFFICE.**

You may mail or deliver the original and two copies of the **foreign judgment**, the affidavit, and the filing fee to the clerk's office in person or you may mail them.

The Clerk's office is located at:
R.J. Hughes Justice Complex
6th Floor North Wing
Trenton, **New Jersey** 08626

**FORM A
AFFIDAVIT IN SUPPORT OF APPLICATION TO
RECORD A FOREIGN JUDGMENT IN NEW JERSEY**

I, _____, of full age, being duly sworn according to law, upon my oath hereby depose and say: (

1. I am the [**judgment** creditor] [attorney for the **judgment** creditor] in a lawsuit captioned _____, plaintiff, v. _____, defendant in the _____ (name of court) of the State [Commonwealth] of _____ (name of state or commonwealth) and am seeking to record (docket) said **judgment** in the State of **New Jersey**.

2. Attached to this affidavit is an authenticated (exemplified) copy of the **judgment** from the State [Commonwealth] of _____ (name of state entering judgment) wherein judgment was entered against _____ (**judgment debtor's name**) in the amount of \$ _____ (dollar amount) on _____ (date entered).

3. The **judgment** creditor's name is _____ (name of the creditor) and resides [is located] at _____ (street and street number, city and state of the creditor).

4. The **judgment** debtor is known to me as _____ (debtor's name) and was last known to reside [be located] at _____ (street name and number) in the [City][Township][Borough] of _____ (name of city ,town or borough), County of _____ (name of county) and State of **New Jersey**.

5. The time to appeal the **judgment** in the State [Commonwealth] of _____ (*name of foreign state*) has expired.

6. The courts of the State [Commonwealth] of _____ (*name of foreign state*) have not granted a stay of execution of said **judgment**.

7. The **foreign judgment** [was][was not] entered by default. (If the *foreign judgment* was entered by default, cite the court rule for vacating defaults and attach a copy of *the cited court rule*). *If judgment by default, then add:* Under the relevant statutes and rules of court, the date for vacating the default expired on _____ (*insert date*) without the **judgment** debtor moving to vacate the same.

*signature of judgment creditor
or judgment creditor's attorney*

Sworn and subscribed before me
on this _____ day of _____,
20 ____.

Signature of Notary Public
My commission expires on _____

Endnotes

ⁱ **N.J.S.A. 2A:49-25.** This act shall be known and may be cited as the "Uniform Enforcement of Foreign Judgments Act."

ⁱⁱ **N.J.S.A. 2A:49A-27 Filing of copy of foreign judgment**

A copy of any foreign judgment authenticated in accordance with an act of Congress or the statutes of this State may be filed in the office of the Clerk of the Superior Court of this State. The clerk shall treat the foreign judgment in the same manner as a judgment of the Superior Court of this State. A judgment so filed has the same effect and is subject to the same procedures, defenses and proceedings for reopening, vacating, or staying as a judgment of a Superior Court of this State and may be enforced in the same manner.

ⁱⁱⁱ **2A:49A-26 "Foreign judgment" defined**

In this act "foreign judgment" means any judgment, decree, or order of a court of the United States or of any other court which is entitled to full faith and credit in this State.

^{iv} **2A:49A-28 Filing of affidavit; mailing of notice to judgment debtor**

a. At the time of the filing of the foreign judgment, the judgment creditor or his lawyer shall make and file with the Clerk of the Superior Court an affidavit setting forth the name and last known post office address of the judgment debtor, and the judgment creditor. The affidavit shall further set forth whether the time to appeal the foreign judgment has expired and whether the court of origin has granted a stay of execution. In addition, in the case of a judgment entered by default, the affidavit shall so state and shall set forth the expiration date under the rules of the court of origin for vacating the default.

b. Promptly upon the filing of the foreign judgment and the affidavit, the clerk shall mail notice of the filing of the foreign judgment to the judgment debtor at the address given and shall make a note of the mailing in the docket. The notice shall include the name and post office address of the judgment creditor and the judgment creditor's lawyer, if any, in this State. In addition, the judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed.

c. No execution or other process for enforcement of a foreign judgment filed under this act shall issue until 14 days after the date the judgment is filed.

^v **2A:49A-29 Appeal, stay of execution, enforcement**

a. If the judgment debtor shows the Superior Court that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished security for the satisfaction of the judgment required by the state in which it was rendered.

b. If the judgment debtor shows the Superior Court any ground upon which enforcement of a judgment of the Superior Court would be stayed, the Superior Court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment which is required in this State.

^{vi} **2A:49A-30 Fees for filing foreign judgment**

Any person filing a foreign judgment shall pay to the Clerk of the Superior Court the fees required pursuant to N.J.S.22A:2-29 for actions taken with respect to judgments. Fees for docketing, transcription or other enforcement proceedings shall be as provided for judgments of the Superior Court in accordance with N.J.S.22A:2-29.