

Domesticating A Foreign State Court Judgment in New York State

You recovered a judgment in your State. It turns out that the judgment-debtor has assets in New York. In order to attach the judgment-debtor's assets in New York the judgment must be registered. How do you do it? The procedure for "domesticating" a judgment in New York is governed by the judgment itself; i.e. a judgment on consent, judgment on default or a judgment on the merits.

1) Confession (Consent) Judgment:

New York State Court will not recognize foreign consent judgments. In order to enforce the foreign judgment confessed by the defendant, the creditor must sue on the consent judgment.

2) Judgment Obtained by Default a/k/a Defendant Failed to Appear:

The New York Court will not recognize and does offer full faith in credit for judgments obtained on default. It is necessary to sue on the foreign judgment. The only defense that can be raised against a suit brought on the judgment is that the originating Court did not have jurisdiction over the defendant. Any challenge to the foreign judgment must be brought in the originating State.

It is often recommended that in addition to suing on the judgment, a separate and distinct cause of action be brought against the debtor based upon the merits of the case. The rationale being that in the event the cause of action on the judgment fails, there is a second cause of action that can survive. The creditor does not lose their opportunity to pursue the defendant because the judgment was found to be improper or the pleadings were deficient.

The challenge with bringing a second cause of action against the defendant based upon the merits of the case is that the debtor has an opportunity to defend the case and "gets another bite at the apple." If vigorously defended, the case may require depositions, conferences, and trial for which the creditor will need to travel to and testify in New York State.

The decision whether to sue only on the judgment or to add a second cause of action based upon the merits of the underlying claim is often difficult. Forwarding counsel and client must consider the cost of litigating a defended matter, the possibility of the original judgment failing, while taking into account the validity of the underlying "foreign judgment." Often clients base their decision on the amount of the underlying judgment and the anticipated costs to travel to New York in the event the matter is contested.

3) Judgment Obtained on the Merits:

The New York Court will allow the domestication of a foreign judgment which was obtained on the merits. In order to register the judgment with the court, the following is necessary:

- an exemplified copy of the foreign judgment
- a supporting Affidavit specifically drafted for the case
- a judgment roll

If you have further questions about enforcing a judgment in New York State Court or Federal Court, please contact our office (212) 686-0100. We are happy to help you.