

What We Know

ARTICLES & INSIGHTS

ABOUT THE AUTHOR



[Gary Groon](#) is a partner in the firm and member of the firm's creditors' rights section. He is a certified Creditors' Rights Specialist and concentrates his practice in the areas of debt collection and civil litigation. A member of the [Million Dollar Advocates Forum®](#), [The Top Trial Lawyers in America®](#), Gary represents national and local businesses in collection matters throughout North Carolina. Gary speaks several times each year at seminars on collection law and enforcement of judgments. He has been featured as a speaker at educational programs sponsored by Heritage Professional Education, Lorman Education Services, and National Business Institute.

Seeking Enforcement of a Foreign Judgment in North Carolina – What Creditors Need to Know

May 10, 2016 | by

In North Carolina, there are two ways for a creditor to seek enforcement of a foreign judgment. One way is by the creditor bringing an action to the court, asking the court to afford the foreign judgment full faith and credit under Article IV, Section 1 of the United States Constitution. That is, to request the court give the foreign judgment the same effect and standing as that of any other judgment obtained in this State. A complaint seeking to enforce the foreign judgment should include a certified copy of the foreign judgment, as well as an affidavit of claim setting forth the balance due on the foreign judgment.

The second option to enforce a foreign judgment in North Carolina falls under the Uniform Enforcement of Foreign Judgments Act. The Uniform Enforcement of Foreign Judgments Act requires the plaintiff to file a notice of the foreign judgment in the county in which the defendant either resides or owns real or personal property. The notice of filing of the foreign judgment must be accompanied by a certified copy of the foreign judgment, as well as a foreign judgment affidavit.

The notice must set forth the name and address of the judgment creditor. The notice shall advise the defendant that he has thirty (30) days from the date of receipt of the notice to seek relief from enforcement of the judgment. The notice must further advise the defendant that if no relief is sought within that period, the judgment will be enforced in the same manner as any other judgment obtained in this State.

Once the notice of foreign judgment has been filed, the foreign judgment and affidavit shall be docketed and indexed in the same manner as any other judgment of this State. However, execution may not be issued nor may any other action be taken on the enforcement of the foreign judgment until thirty (30) days after the defendant has been served with the notice of filing. Service of the notice of filing of the foreign judgment may be made in any manner provided for in Rule 4(j) of the North Carolina Rules of Civil Procedure.

After being served with the notice of filing foreign judgment, the defendant may, within

the thirty (30) day period, file a motion for relief from, or notice of defense to the foreign judgment. The defendant may raise as a defense to the foreign judgment any grounds, including the relief provided under Rule 60 of the North Carolina Rules of Civil Procedure, for which relief from a judgment of this State would be allowed. If the defendant files a motion for relief from or notice of defense to the foreign judgment, the plaintiff must then move for enforcement of the foreign judgment. The plaintiff's motion is heard before a Judge. The plaintiff has the burden of proving that the foreign judgment is entitled to full faith and credit.

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