

Finishing the Job: The Importance of Domesticating a Foreign Judgment

Written By **Thomas C. Wolff** (tcw@wardandsmith.com)

December 4, 2019



How does a creditor enforce a judgment against a debtor who either relocates to another state, or owns property in another state?

If the judgment is not paid and satisfied, can the creditor follow the judgment-debtor across state lines to pursue their assets?

As most states have done, North Carolina has adopted the Uniform Enforcement of Foreign Judgments Act (UEFJA), which establishes guidelines for accomplishing this task. The UEFJA allows a judgment-creditor to domesticate the foreign judgment (meaning a judgment entered out-of-state) to North Carolina, where it may be enforced as if it were originally rendered by a North Carolina Court. The idea behind domestication is rooted in the Constitutional requirement that judgments should be given "full faith and credit" as between the States.

Why Domestication Should Be Considered

When a judgment is entered in one of North Carolina's state courts, it acts as a lien on all of the real property owned by the debtor *in that county*. However, in order to enforce a foreign judgment against a debtor in North Carolina, the judgment must first be domesticated to a county where either the debtor resides or owns property. Without following the strict requirements of the UEFJA, and properly domesticating the foreign judgment, the judgment is nothing more than a piece of paper. Domestication is the process that allows a creditor to attach the judgment as a lien to the debtor's property, and otherwise enforce it.

When it comes to lien priority, North Carolina is one of the few "pure race" jurisdictions. This means that the first person in time to record their lien will generally be granted priority as against subsequent lien holders. Because of this, when a judgment-creditor knows a debtor resides within North Carolina's borders, or otherwise holds property in one of its counties, it is typically in that creditor's best interests to domesticate the foreign judgment as soon as possible.

Not only that, but the simple act of domesticating the judgment can act as a show of force to a debtor who thinks they are out of the creditor's reach. By showing the debtor that the creditor is willing to pursue recovery across state-lines, domestication efforts can sometimes be used to force a settlement or satisfaction of the underlying debt.

What is Involved?

The process of domesticating a judgment can seem intimidating. While the UEFJA sets out strict guidelines for judgment-creditors to follow, even a slight mistake can render the judgment unenforceable in North Carolina, and any anticipated lien invalid. *First*, the judgment-creditor must obtain an "authenticated copy" of the foreign judgment. What is considered "authenticated" can vary from jurisdiction to jurisdiction, but North Carolina Courts typically require an exemplified or "triple-sealed" copy of the original foreign judgment. *Second*, the judgment-creditor or its attorney must sign a sworn statement (or affidavit) to certify that the judgment is final, has not been paid or satisfied, and the unpaid balance due on the judgment. *Third*, the judgment-creditor must file the required paperwork with the Clerk of Court, all of which must then be properly served on the judgment-debtor.

Once the judgment-debtor has been served, they have 30 days to respond and move for relief from the judgment. Under the UEFJA, any judgment which is properly domesticated, will be subject to the same defenses as a judgment of North Carolina. However, the defenses available to the judgment-debtor have been limited by North Carolina Courts to only those focused on the validity and finality of the judgment. *DOCRX, Inc. v. EMI Servs. of N. Carolina, LLC*, 367 N.C. 371 (2014). Generally, this means that the judgment-debtor is limited to attacking the judgment in situations where the judgment was obtained through some extrinsic fraud, or that the judgment has been paid and satisfied.

However, not all judgments are created equal. Only certain judgments can be domesticated under the UEFJA. Enforcing foreign domestic orders (e.g., child support, child custody, domestic violence) are governed by a separate set of rules.

Now What?

Once the debtor has been properly served with the Notice of Foreign Judgment and the 30-day response window closes without a filing, the judgment is considered "final" and enforceable in North Carolina. At that time, the judgment-creditor is free to transcribe (i.e., record) the judgment in any other county where it believes the debtor holds property, or begin the execution process. Judgment execution is the vehicle used to have a Sheriff's Department locate and seize the defendant's assets to satisfy the judgment balance.

We urge anyone looking to enforce their foreign judgment in North Carolina to seek legal advice before taking steps to domesticate. An experienced attorney can help to develop an effective strategy for recording a lien on the debtor's property and taking steps to enforce the judgment.

--

© 2022 Ward and Smith, P.A. For further information regarding the issues described above, please contact Thomas C. Wolff.

This article is not intended to give, and should not be relied upon for, legal advice in any particular circumstance or fact situation. No action should be taken in reliance upon the information contained in this article without obtaining the advice of an attorney.

We are your established legal network with offices in Asheville, Greenville, New Bern, Raleigh, and Wilmington, NC.