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Flangas v. Perfect Marketing, LLC 138 Nev. Adv. Op. 26 (April 14, 2022)

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NRCP 60(b): The Court concluded that under the Uniform Enforcement of Foreign Judgements Act, a foreign judgement is enforceable in Nevada if the judgement creditor domesticates that judgement according to the provisions of the Act within the rendering state's limitation period and complies with the statutory notice provisions of the Act, which the district court correctly determined the appellant did here.

Summary

The Court affirmed the district court's order denying a motion to set aside a domesticated foreign judgement after respondent was properly served and judgement was properly domesticated in Nevada. The Court also concluded that enforcement of the foreign judgement did not violate due process because respondent served the domestication notice by certified mail. This type of service is reasonably calculated to reach the interested party. The Court affirmed.

Facts and Procedural History

Perfekt Marketing, LLC (respondent) obtained a judgement on May 5, 2014, against Leonidas Flangas (appellant) in Arizona. Perfekt Marketing domesticated the judgement on February 5, 2019, by filing a certified copy of the foreign judgement and affidavit of the foreign judgement's validity and enforceability in a Nevada district court. Next, Perfekt Marketing sent a notice of the filed application and affidavit by certified mail to Flangas's last known address and to Flangas's attorney in Arizona, on February 6, 2019. Perfekt Marketing also filed an affidavit of service with the Nevada district court. Because Perfekt never received confirmation that Flangas had received the notice, personal service of the notice was attempted on four occasions. Flangas was served on June 6, 2019, via his law firm in Arizona; 120 days after the domestication notice was first mailed.

Flangas sought relief under NRCP 60(b) arguing that the Arizona judgement had expired and was void due to Perfekt Marketing's failure to renew the judgement under Arizona law before it perfected personal service of the domestication notice on Flangas. Flangas argued that the judgement was not entitled to full faith and credit because the delay in service of the domestication violated statutory-notice and due-process guarantees. Perfekt Marketing argued that the registration of a foreign judgement in Nevada domesticates the judgement in Nevada and triggers Nevada's six-year statute of limitations for judgement enforcement. The district court denied Flangas's NRCP 60(b) motion. Flangas appealed.

¹ By Anne-Greyson Long.

Discussion

Enforceability of a foreign judgement is not defeated if a judgement creditor domesticates the judgement before its expiration in the rendering state, notwithstanding that the judgement debtor receives notice of the filing after its purported expiration in the rendering state

The Court disagreed with Flangas's argument that the date on which a judgement creditor provides actual notice of the filing of the foreign judgement to the judgement debtor serves as the operative date to determine whether a foreign judgement is valid in Nevada. Nevada adopted the Uniform Enforcement of Foreign Judgements Act (UEFJA) to govern procedures to domesticate and enforce a foreign judgement in the state.² The UEFJA mandates enforcement of "any foreign judgement" by providing that "an exemplified copy of any foreign judgement may be filed with the clerk of any district court. *The clerk shall treat the foreign judgement in the same manner as a judgement of the district court of this state.*"³ The Court explained this language means that the act of domesticating a foreign judgement in a Nevada district court creates a "new actions for the purposes of the statute of limitations."⁴ The foreign judgement, in effect, becomes a Nevada judgement subject to Nevada's enforcement rules.⁵ Additionally the Court finds that the district court properly determined that renewal was not required to enforce the judgement.⁶

The Arizona judgement was entitled to full faith and credit when Perfekt Marketing filed it in Nevada district court

The Court also disagreed with Flangas's argument that the Arizona statute of limitations expired before Perfekt Marketing accomplished actual notice of the domestication of foreign judgement and that the judgement is invalid on full-faith-and-credit grounds because present enforcement of the judgement denies hum due process. A state's statute of limitations does not bear on the validity of the judgement. Rather the dispositive issue is whether a full-faith-and-credit ground exists to refuse to recognize the judgement. Flangas offered none.⁷

The UEFJA's notice provisions are reasonably calculated to notify a judgement debtor of a judgement-enforcement proceeding, and Perfekt Marketing complied with its requirements

The Court reviewed de novo whether the absence of an actual-notice requirement under UEFJA violates due process. Actual notice means that an interested party in fact receives notice of any action against them.⁸ The record supports that Perfekt Marketing mailed the notice one day after it filed the foreign judgement. The Court therefore concluded that the enforcement of the Arizona judgement in Nevada does not violate Flangas's procedural due-process rights.⁹

² See NEV. REV. STAT. 17.330-.400.

³ NRS 17.350.

⁴ Trubenbach v. Amstadter, 109 Nev. 297, 301, 849 P.2d 288, 290 (1993).

⁵ *Id.*

⁶ See NEV. REV. STAT. 17.350.

⁷ *Id.*

⁸ See Dusenbery v. United States, 534 U.S. 161, 169 (2002).

⁹ See Bongiovi v. Sullivan, 122 Nev. 556, 580, 138 P.3d 433, 450 (2006).

Enforcement of the Arizona judgement in Nevada does not deprive Flangas of the opportunity to be heard

The Court concluded that Flangas is not entitled to reversal because he has not established that any delay in serving notice of the judgement's domestication in Nevada deprived him of otherwise available Arizona and UEFJA defenses. The Court concluded that Flangas's due process rights were not violated.

Conclusion

Pursuant to the UEFJA, Nevada courts must enforce any foreign judgement entitled to full faith and credit as if that judgement was rendered in this state. Here, the district court properly concluded that a foreign judgement is domestication in Nevada district court pursuant to NRS 17.360(2), and that a domesticated foreign judgement is enforceable in Nevada for six years from the date of registration according to NRS 11.190(1)(a). The Court concluded that Flangas was not deprived of due process under NRS 17.360(2) and the Arizona judgement against does not deprive Flangas of any defenses.