

Enforcing Foreign Judgments – What defenses can a judgment debtor raise?

What happens when a creditor gets a judgment against a debtor in Alabama (or another state) but then the judgment debtor moves to North Carolina, or the bulk of its property is in North Carolina? Can the creditor get its “foreign” (meaning out-of-*state*, not out-of-country) judgment enforced in North Carolina? Yes, and typically the most efficient way is to follow the steps in North Carolina’s version of the [Uniform Enforcement of Foreign Judgments Act](#) (“UEFJA”), G.S. 1C-1703 through -1708.

If the creditor follows the UEFJA’s filing and notice requirements, the foreign judgment will be “docketed and indexed in the same manner as a judgment of this State.” The creditor can seek enforcement of the judgment just as if it had originally been entered in North Carolina. But the UEFJA further provides that the judgment “is subject to the same defenses as a judgment of this State[.]” G.S. 1C-1703(c). To that end, before enforcement can begin, the judgment debtor has a 30-day window to file a motion for relief from (or notice of defenses to) the judgment. G.S. 1C-1704(b). The UEFJA goes on to state that the debtor can raise “any other ground for which relief from a judgment of this State would be allowed.” 1C-1705(a).

On the face of things, the UEFJA’s “same defenses” and “any other ground” language seems pretty broad and appears to open up all kinds of challenges. But does it really mean *all* defenses that a debtor might raise to enforcement of a North Carolina judgment? More pointedly, does every [Rule 60\(b\)](#) basis for “relief” from judgment apply?

Recently, in *DocRx v. EMI Services of North Carolina*, 367 N.C. 371 (2014), our Supreme Court addressed this question as a matter of first impression. In the end the court said no: the debtor’s defenses are in fact more limited than the UEFJA provides. And the reason lies in the Constitution’s [Full Faith and Credit Clause](#), which provides that “[f]ull faith and credit shall be given in each state to the...judicial proceedings of every other state.” In *DocRx*, the debtor asserted that a nearly half-million dollar Alabama default judgment could not be enforced in North Carolina because it was procured through fraud—specifically, false statements about damages in plaintiff’s affidavits. On this basis—“intrinsic fraud, misrepresentation, and misconduct”—the trial court denied enforcement.

The Court of Appeals reversed. The court stated that the trial court’s action was “warranted by the plain language of [UEFJA]”, but that the Full Faith and Credit Clause nevertheless would not permit it. Because the debtor’s defense involved *intrinsic* fraud—fraud in presenting the evidence to the court—rather than *extrinsic* fraud—fraud depriving the debtor from the opportunity to present its case—it was not sufficient to meet the requirements of Full Faith and Credit. Our Supreme Court agreed and held that,

[T]he defenses preserved under North Carolina's UEFJA are limited by the Full Faith and Credit Clause to those defenses which are directed to the validity and enforcement of a foreign judgment. The language of the UEFJA that a foreign judgment 'has the same effect and is subject to the same defenses as a judgment of this State and shall be enforced or satisfied in like manner,' N.C.G.S. § 1C-1703(c), does not refer to defenses on the merits but rather refers to defenses directed at the enforcement of a foreign judgment, such as, that the judgment creditor committed extrinsic fraud, that the rendering state lacked personal or subject matter jurisdiction, that the judgment has been paid, that the parties have entered into an accord and satisfaction, that the judgment debtor's property is exempt from execution, that the judgment is subject to continued modification, or that the judgment debtor's due process rights have been violated.

367 N.C. at 382 (citations omitted). The court went on to state that

To permit a party to relitigate matters that could have and should have been litigated in the rendering court is inconsistent with decisions of the United States Supreme Court.... Further, to permit a party to collaterally attack a foreign judgment on the merits would be contrary to the rationale underlying the UEFJA, which is to streamline the procedure for enforcing a foreign judgment and eliminate the need for additional litigation.

Id. (citations omitted). So, no, the UEFJA's broad defense language does not in fact permit a full range of challenges nor relitigation of underlying issues, nor does it generally give the debtor a second chance at raising certain defenses.

And just this month our Court of Appeals addressed whether a debtor could raise a due process defense under UEFJA—the type of defense that otherwise would pass Full Faith and Credit muster—when the debtor failed to first raise it in the issuing court. In [Tropic Leisure Corp. v. Hailey](#), __ S.E.2d. __ (N.C. App. Aug. 16, 2016), the debtor argued that the issuing court, a U.S. Virgin Islands jurisdiction, violated his right to due process by, among other things, not permitting trial by jury. The Court of Appeals rejected this defense because the debtor failed to raise it in the first court, "and he has not demonstrated that he was in any way prevented from doing so." The court then held that, "the UEFJA does not permit Defendant to mount a collateral attack on a foreign judgment based on an argument that he could have raised...but instead chose to forego until Plaintiffs sought enforcement of the judgment in North Carolina."

[An important note about scope: The UEFJA covers enforcement of a "foreign judgment," but it explicitly excludes from the definition of that term a "child support order" as defined in G.S. 52C-1-101 (The Uniform Interstate Family Support Act), a "custody decree" as defined in G.S. 50A-102 (The Uniform Child Custody Jurisdiction and Enforcement Act), or a domestic violence protective order as provided in G.S. 50B-4(d).]