

CH. 6 RECOGNITION OF JUDGMENTS

p.489

How does a court judgment get:

(1) enforced, or

(2) overturned/rejected?

1) **Direct attack: FRCP 59** – to grant a new trial subject to limited reasons and a time limitation

2) **FRCP 60** - Fraud, newly discovered evidence, etc.

These options are limited to the original court.

Collateral Attack on a Judgment **p.489**

Does the judgment have binding effect in subsequent litigation?

1) **Res judicata** – requires identity of the parties from the prior litigation.

2) **Collateral estoppel** – effects of findings of fact in one proceeding as binding in subsequent litigation.

I.e., subsequent “claim preclusion.”

Collateral Estoppel Defined

p.490

Concept of limiting a second determination of facts by the determination of facts which occurred in the prior litigation.

Options: a) “Bar” – no relitigation of the specific cause of action previously decided; or
b) “Merger” – precluding litigation of similar matters; based on waiver or rights in initial proceeding; no fractionalization of disputes.

Multiple Jurisdictional Implications

p.491

What is the impact when a judgment in one jurisdiction is considered as applicable in a second jurisdiction?

U.S. Constitution, “Full Faith & Credit” clause (Art. IV, §1).

Further, 28 U.S.C. §1738, re authenticated records having full faith and credit in other state jurisdiction.

Judgment Enforcement Issues

p.491

Impediments when enforcing a 1st state judgment in another (2nd) jurisdiction:

- 1) Did jurisdictional defects arise in the 1st jurisdiction?
- 2) What if the first judgment is contrary to public policy in the 2nd jurisdiction?
- 3) What procedural laws apply to enforcement of a judgments from the 1st jurisdiction?

Durfee v. Duke

p.492

Action in Neb. Court to quiet title to land – but was the land in Neb. or Missouri? Neb. Ct. rules for P. (to quiet title) & land in Neb.; but D. asserts in Neb. court that no Neb. jurisdiction.

D files proceeding in Missouri to quiet title to same land. Fed. Dist. Ct. for diversity action.

Fed. Dist. Ct.: Neb. judgment is res judicata.

Fed. Ct. App. says no full faith & credit required since no res judicata & land in Mo.

Cont.

Durfee v. Duke

p.492

continued

Held for Neb. plaintiff (reversing Fed.Ct.App.).

1st (Neb.) judgment binding only if that court had jurisdiction. But, full faith & credit to 1st judgment is required where 2nd court's inquiry shows issue fully & fairly litigated in 1st court.

Question of land title decided in 1st proceeding.

Different issue of Neb. vs. Mo. re land situs.

Black concurrence (p.495): What if a later determination that land is in Mo.?

Fall v. Eastin (date 1909)

p.495

Divorce proceeding in Washington & decree of court ordering commissioner to deed land located in Nebraska to ex-wife. He asserted that his separate property; she asserted community property (but located in Nebraska; tenancy in common?) She argues Wash. Law requires “just & equitable” division of property. She says land is hers from the divorce.

But, husband issued a deed to the land to a third party.

Cont.

Fall v. Eastin (date 1909) **p.495 cont.**

Action in Neb. Ct. to quiet title to land & cancel mortgage on that land (his separate property?).
Does the full faith & credit doctrine apply in Neb. proceeding?

Sup. Ct.: Wash. Court had no jurisdiction over land and deed was not effective.

But could the Wash. (or Neb.) court order the conveyance by him to her? The court had equity jurisdiction over him.

What about enforcement of a money judgment?

Kalb v. Feuerstein

p.500

Action in state ct. to confirm sheriff's sale of property. Subsequent state ct. actions to restore possession and damages. Wis. Sup.Ct. rejected.

Collateral attack on a state court judgment.

Action to reverse sheriff's sale and restore possession of premises. Action of the local court was beyond its power after bankruptcy filing.

But, jurisdiction in Wis. Court was ousted by a bankruptcy filing in Federal Bankruptcy court.

Kalb et. seq. observations

p. 503

Peremptory prohibition on state action by federal government bankruptcy laws.

Bankruptcy jurisdiction as exclusive.

Are federal courts bound by the full faith & credit clause?

Can U.S. Congress prohibit implementation of certain state laws? Consider relevance of the Tenth Amendment.

When does Fed. Law overrule state law? P.503

Must clear Congressional intent exist?

See (p. 3) recognition of state court or state administrative findings as binding in (1) civil rights claim (barring §1983 claim), and (2) nondiscrimination claim, determination by state administrative agency, barring Title VII in fed. Court.

Does this suggest a “race to the courthouse”?

Fauntleroy v. Lum

p.504

Two Miss. residents entered into a futures contract (then deemed illegal “gambling”). One sought recovery through arbitration in Miss. – but Miss. court refused enforcement.

Claimant obtained personal jurisdiction in Mo. and sought enforcement of arbitral award there.

Mo. court rendered judgment to enforce award.

Enforcement action in Miss. is sought.

Miss. court determines no full faith & credit for Mo. judgment (wholly a Miss. transaction). cont

Fauntleroy v. Lum

p.504

continued

U.S. Sup. Ct. says judgment in Mo., once issued, is entitled to full faith & credit.

Did the Mo. court get the decision wrong (and under Miss. law for Miss. transaction) thereby violating full faith & credit clause?

Should the original Miss. judgment have precluded subsequent attempts at enforcement?

Is a judgment issued in violation of full faith & credit clause itself still entitled to full faith & credit? Yes, under a “last in time” rule. Cont.

Fauntleroy v. Lum

p.504 **continued**

Should the Mo. decision have been appealed to get the right result, including an appeal to the U.S. Sup. Ct.?

Dissent opinion, p. 507: This ruling violates full faith & credit clause.

Did Mo. Court deny full faith & credit when not recognizing Miss. law re gambling?

The “Penal” Exception

p.508

One state need not enforce the “penal” claims of another state, even if embodied in a judgment.

What is a “penal” provision?

Is a “punitive damages” portion of a judgment a “penal” provision?

What about enforcement of another state’s tax judgments? Cf., enforcement of tax judgment vs. enforcement of another state’s tax substantive law. Cf., tax debt enforcement across national borders.

Thomas v. Washington Gas Light Co. P.509

Disability benefits award under Va. Workmen's Compensation Act. Does obligation on D.C. to give full faith & credit bar a supplemental award under the D.C. Workmen's Comp. Act?

D.C. resident and D.C. employer but Va. injury. Employer asserts Va. award precludes any other recovery "at common law or otherwise."

D.C. Adm.Law judge determines Va. award not precluding further award & awards more.

4th Cir. - 2nd action precluded. Reversed by SC.

Thomas v. Washington Gas Light Co. Cont.

Impact of full faith & credit clause?

Was D.C. without power to award additional compensation? McCartin case: workmen's comp. statutes should not prevent supplemental recovery (unless "unmistakable language").

Plurality: Full faith & credit clause should (could) not preclude supplemental recoveries.

White's concurring opinion: Limit McArtin opinion to worker's compensation cases.

Dissent: preclude D.C. recovery.; protect
finality of litigation.

Baker v. General Motors

p.521 Equitable Decrees

Are equitable decrees entitled to recognition under the full faith & credit clause? Yes.

Facts: GM & employee dispute. Employee as witness vs. GM in Mo. products liability suit.

He sued for wrongful discharge. Settlement included injunction to forbid his testimony against GM, but not covering a court order.

He was under subpoena to testify against GM.

Dist. Ct. allowed testimony; 8th Cir. reversed.

Sup.Ct.: injunction not limiting testimony. Cont.

Baker v. General Motors

***cont.* Equitable Decrees**

Ginsburg: Enforcement is different from recognition or preclusion; enforcement measures do not travel with sister-state judgments. Mich. injunction can not dictate to Mo. Court that evidence is inadmissible.

Scalia: GM- turn Mich. result into a Mo. result.

Kennedy: Mo. plaintiffs were not parties to Mich. suit and can not be bound by Mich. result.

Should GM be able to buy employee's silence?

Is the Mich. contract against Mo. public policy?

Defense of Marriage Act Note, p. 533

Art. IV, §1, provision that Congress may prescribe the “effect” of the laws of states.

DOMA: No state shall be required to give effect to a statute of another state permitting a same sex marriage.

See Baker case: permitting a public policy exception as consistent with full faith & credit.

Does DOMA permit state’s nonrecognition of a judgment related to same sex marriage issues?

Defense of Marriage Act Note, p. 533, cont.

Continued push-back against DOMA:

- 1) Bankruptcy courts**
- 2) IRS private letter ruling re recognizing marriage community property equivalent distribution for federal income tax purposes.**
- 3) February 2011 Atty. Gen. Holder memo that US Justice to no longer defend DOMA (but change if Presidency changes).**

Foreign Judgments

Note, p. 535

Full faith & credit clause applies to acts of “states” and not to judgments by courts of foreign countries/states.

Foreign judgments are generally enforceable as matter of common law “comity.”

Note “Uniform Foreign Money Judgments Recognition Act” – enforceability same as for judgment of a state (full faith & credit).

& Update: “Uniform Foreign Country Money Judgments Recognition Act.”

Cross-border Enforcement

Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters.

Issues concerning significantly different procedural rules (i.e., due process concerns) from one country to another.

Must be notice and personal service, etc.

Enforcing State's Law of Judgments

p.537

Union National Bank v. Lamb, p.537

Mo. limits life to a judgment to 10 years (unless revived). Further, no revival after ten years.

Colo. (revived) judgment sought to be enforced in Mo. Then, Mo. Sup. Ct. refused to enforce, rejecting the revival of original judgment (could not have been revived under Mo. law).

Sup.Ct.: Colo. judgment to be given full faith & credit. But, to determine on remand the status of the judgment as being valid under Colo. law.

Watkins v. Conway

p.538 Florida Judgment

Watkins gets 25k tort judgment in Florida.

Later sues on judgment in Georgia.

Def.: this suit brought untimely under Ga. law.

Full faith & credit claim rejected in Ga.

Sup. Ct.: Relevant starting date for Ga. 5 yr. statute is latest judgment revival date.

Pl. should return to Fl., revive the judgment, and then return to Ga. (within 5 years) and pursue enforcement of the Fl. judgment.

Stat. of Limit & Judgment Enforcement p.539

Should forum state be able to apply its own S/L to enforcement of foreign judgments?

But, is not the foreign judgment conclusive on the rights of the parties, and the local S/L procedural rule should be irrelevant?

Treinies v. Sunshine

Mining

p.543

9th Cir. affirms Idaho Dist. Ct. re “Bill of Interpleader” filed by Sunshine Mining against claimants of Sunshine stock and dividends.

Inconsistent prior judgments re ownership from (1) Spokane, Wash. and (2) Idaho state courts.

How give full faith & credit to each in an interpleader action?

Treinies v. Sunshine

Mining, cont. P.543

- 1) Mason files ownership action in Idaho.
- 2) Mason files petition in Wash. Probate court; Mason seeks Wash. Sup. Ct. prohibition on further proceedings for lack of jurisdiction, but judgment against Mason & not ownership.
- 3) Idaho Sup.Ct. rules for Mason.
- 4) Washington proceeding initiated alleging Idaho decree was invalid.
- 5) Sunshine files interpleader action in Fed. Dist. Ct. (diversity permitted).

Cont.

Treinies v. Sunshine

Mining, cont.

P.543

In Fed. Dist Ct.: recognizing that Idaho Ct. had determined that Washington Ct. had no jurisdiction over Mason, but full jurisdiction in Idaho – where judgment for Mason.

Sup. Ct. – Idaho court could determine no jurisdiction existed in Wash.

Therefore, recognition of the Idaho judgment.

Enforcement of most recent judgment entitled to full faith & credit.

Byblos Bank case, p. 547

Foreign Judgments

Belgian bank sues Turkish bank borrower (1) unsuccessfully in Turkey and Germany (recognizing Turkey decision), but (2) successfully in Belgium (not recognizing Turkey decision & finding substantial error).

Attempted enforcement of Belgium judgment in NY, but no NY recognition of Belgium decision.

Not full faith & credit, but foreign money judgments question – and Belgium judgment not recognized for not recognizing res judicata.

Domestic Relations

p.547 “Special Problem”

What are the jurisdictional premises in domestic relations law, i.e., divorce?

Divorce action is an “action in rem” – with the marriage “relationship” as the res. What is the location of the res if the spouses are domiciled in different jurisdictions?

What requirements for recognition of the divorce judgment? Domicile is a prerequisite for a “full faith & credit” recognition of the divorce decree.

Domestic Relations

p.547 Marriage Status?

Validity of a marriage is determined by the place of celebration.

No valid if contrary to fundamental policy of state to most significant relationship when marriage celebrated (i.e., ordinarily the domicile of the parties).

Marriage not recognized if contrary to public policy of state where recognition is sought.

Purpose of non-recognition: cohabitation?

Intestate succession?

Williams v. North Carolina p.548 Divorce Status?

Ex parte divorces? Cf., fraud on the court where restrictive rules re obtaining divorce.

The question was whether Nevada domicile was adequately established for purposes of obtaining Nevada divorces. Jury instruction (in bigamous cohabitation prosecution) determined proper that Nevada divorce judgments were void only if the parties did not have “bona fide domicile” in Nevada. Constructive service acceptable.

Conviction affirmed in Williams II.

Estin v. Estin

p.548 Divorce & Support

Does NY separation decree awarding support payment survive a subsequent Nevada divorce?

1st - NY separation & he must pay support.

2nd – Nevada ex parte divorce after he establishes domicile there; she receives “constructive notice”; divorce, but no alimony.

3rd- she seeks back alimony in NY; he asserts “full faith & credit” of Nevada judgment; NY Ct. of Appeals rejects & support order survives.

Cont.

Estin v. Estin

p.548 Divorce & Support

Does “full faith & credit” require recognition of Nevada decree? Yes, but holding as to alimony: she has rights as a creditor over debt he owes.

She was never personally served in the Nevada proceeding; Nevada had no power to adjudicate her property rights under the separation order.

Therefore, no requirement on NY to give full faith & credit to the *property* component of the Nevada divorce judgment. Bifurcated treatment. Cf., Jackson dissent, p.551.

May v. Anderson

p.552 Full Faith & Credit?

Ohio habeas corpus proceeding re mother's custody right to children when Wis. divorce decree awarded custody in ex-parte action.

Full faith & credit recognition for Wis. Ct. determination is not required.

Mother refused to surrender children to return from Ohio to Wisconsin.

Holding: Mother's custody right to children is a personal right; personal jurisdiction was required in the Wis. proceeding. Cf., dissent.

Bilateral Divorce & Full Faith & Credit p.555

Johnson v. Muelberger- re daughter/legatee's right in NY to attack deceased father's Florida divorce. Daughter receives under the will.

3rd wife claims NY widow's statutory share.

Daughter contests that 3rd wife was not wife since Father not (really) divorced from Wife 2.

Holding: Fla. divorce decree was valid & not subject to collateral attack in NY (or Fla.).

Daughter could not have attacked in Florida.

Full faith & credit to the Fla. divorce decree.

IRS Contesting Short-term Divorces

p.557

Boyer case (and other cases)

Year-end divorce in the Dominican Republic – to have availability of year-end single taxpayer status and avoid the “marriage penalty.”

What is the “marriage penalty”?

But, if immediately remarrying can IRS assert that divorce (before remarriage) was “sham”?

Would divorce have been recognized under state law?

Status of Foreign Country Divorces? P.557

Not a full faith & credit question, but divorce recognized under concepts of “comity”?

I.e., Mexican divorces obtained by U.S. parties.

Assert the divorce as not to be recognized because of inadequate jurisdiction?

Assert that a subsequent “marriage” should be annulled because prior divorce was not valid?

Child Custody & Support p.558 Full Faith & Credit

Yarborough v. Yarborough, p.558.

Maternal grandfather (as guardian ad litem for GC) sues in S.C. her father for more education & maintenance support. Father's property was attached to enable jurisdiction in this matter & then personal service on father. Awarded more.

Father asserts obligation satisfied in Georgia divorce proceeding with mother. And, asserts "full faith & credit" clause requires recognition.

Cont.

Yarborough v. Yarborough

p.558

Language “permanent alimony” used by Ga. Court to describe support for child.

Refusal by S.C. court to recognize finality of this determination in Ga.

Sup. Ct.: Daughter’s becoming S.C. resident does not change Ga. judgment. No power of S.C. court over father domiciled in Ga. Cf., consideration of any further support if father is domiciled in S.C. (p.560).

Dissent: S.C. has a current interest to be noted.

Interstate Child

“Kidnapping”

p.562

28 USC §1738: No modification permitted of child custody (or visitation) determination made by courts of another (home) state.

Determination to be made by court (1) having jurisdiction and (2) where home state of child when proceeding commenced.

Note alternative situations: (1) no other state has jurisdiction; (2) child physically present and emergency conditions; (3) another state has declined jurisdiction; or (4) continuing original jurisdiction.

Uniform Acts re Child Custody

p.564

- 1) **Uniform Child Custody Jurisdiction Act;**
**(response is §1738A – Parental Kidnapping
Prevention Act)**
- 2) **Uniform Child Custody Jurisdiction and
Enforcement Act (revision).**

Parental Kidnapping Prevention Act p.564

28 USC §1738A

**Not creating a federal cause of action:
Thompson v. Thompson, p. 564.**

Indian tribes are bound by this act.

**Cf., international child custody: Hague
Convention on the Civil Aspects of International
Child Abduction.**

