

CANADIAN JUDGMENTS RECOGNIZED

Otter Valley Foods, Inc. v. Aliko Foods, LLC, No. CV094009931, 2010 WL 2573760 (Ct Super. May 21, 2010). This involves parallel litigation in Ontario (filed by Otter) and Connecticut (filed by Aliko). Otter Valley was a Canadian manufacturer of frozen food products and had various contracts with Aliko, a Connecticut marketer of frozen foods. In 2005 the parties renegotiated their agreement so that Aliko could pay down its accumulated debt to Otter. Then in 2007, Otter shipped contaminated food to Aliko which had to be recalled. Aliko sued Otter in federal court in Connecticut, and Otter then sued Aliko in Ontario for breaching the 2005 agreement. The Ontario case was first to judgment, and Otter filed it for enforcement in Connecticut. Aliko defended on the grounds that Otter's claim was (1) a compulsory counterclaim which required filing in the Connecticut action (which still had not reached final judgment), and (2) subject to a set-off from the Connecticut action. The enforcing Connecticut court disagreed with both defenses, finding the claims to be distinct and finding against a set-off because the Connecticut action had not reached judgment. Aliko also objected that the Canadian award of attorney fees was repugnant to Connecticut public policy because it was based on the "English rule" (loser pays). The enforcing Connecticut court also found against Aliko on this defense, and denied Aliko's motion to stay enforcement.

Fiske, Emery & Associates v. Ajello, 41 Conn.Super.. 376, 577 A.2d 1139 (1989): Quebec law firm Fiske rendered services to Ajello and Scalla (Connecticut residents) who failed to pay the legal fees. Fiske submitted its claim to an arbitration panel in the Quebec Bar which found in the firm's favor for \$ 18,544. Fiske then obtained a Quebec judgment on the arbitration award and filed an action in Connecticut to collect. The enforcing Connecticut court rejected several defenses (due process, notice, fraud, contrary to parties' agreement) and ordered the Canadian judgment enforced. The Connecticut court also held it enforceable under the Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

Royal Extrusions Ltd. v. Continental Window and Glass Corp., 812 N.E.2d 554, 349 Ill.App.3d 642 (2004): Canadian company obtained judgment in Ontario against Illinois company, then sought enforcement under the UFMJRA in Illinois state court. Defendant objected on personal jurisdiction grounds, but court found that Canada had jurisdiction. The court of appeals affirmed. The court's language refers only to plaintiff having registered the Canadian judgment, and not to filing a new a UFMJRA action, or to obtaining an Illinois judgment.

CE Design Ltd. v. HealthCraft Products, Inc., 79 N.E.3d 325 (Ill. App. 2017): CE Design obtained a judgment against Healthcraft in Illinois, then took an assignment of Healthcraft's insurance rights against ING Insurance Co., an Ontario corporation. In the meantime, ING filed an action in Canada seeking a declaration that it had no duty to defend Healthcraft. When CE sought to collect damages and attorney fees (arguably owed to Healthcraft), ING "registered" its Canadian judgment for res judicata purposes in the US. The trial court recognized the Canadian judgment and dismissed CE's claim, but refused to enforce the costs portion of the Canadian judgment. The Illinois appellate court affirmed in part (upholding the recognition of the Canadian judgment) but reversed the trial court's refusal to enforce costs and attorney fees. In doing so, the Illinois Court of Appeals noted that it could find no authority allowing a court to "pick and choose" portions of a judgment entitled to full faith and credit. This ruling substitutes for a prior, similar ruling entitled *CE Design Ltd. v. HealthCraft Prod., Inc.*, 2017 IL App (1st) 143000, P 1 (May 2, 2017).

Weir Foulds, L.L.P. v. Restivo, No. 13CA010349, 2014 WL 1345497 (Ohio App., Mar. 24, 2014): Canadian law firm filed a Canadian judgment for attorney fees against Ohio resident Restivo, who objected on several grounds including the recognition procedure and the lack of a jury trial in Canada. The trial court upheld recognition and the court of appeals affirmed.

Constandinou v. Constandinou, 265 A.D.2d 890 (N.Y. App. Div. 1999): A one-paragraph opinion affirming the lower courts recognition of a Canadian default judgment. The opinion does not identify the original cause of action in Canada but merely addresses the judgment creditor's mode of filing (a motion for summary judgment instead of a fresh complaint for recognition), and the judgment debtor's defenses. The appellate court rejects the defenses (fraud and inadequate legal system) as an attempt to re-open the Canadian case, notes that judgment debtor was subject to Canadian jurisdiction, and does not address any problem with the lack of a complaint. (Affirmed.)

Bank of Montreal v. Kough, 612 F.2d 467 (9th Cir. 1980): Kough (apparently a California resident) was a minority shareholder of Arvee Cedar Mills in British Columbia. Kough had signed a personal guarantee for Arvee's loan from the Bank, and when the loan defaulted, Bank sued Kough and another guarantor in B.C. Kough defaulted in the Canadian action, and when Bank filed it in California, Kough objected to Canadian jurisdiction and also brought a related counterclaim in the enforcing court. The enforcing court rejected Kough's three defenses—personal jurisdiction, a request to re-examine his guarantee, and an alleged lack of reciprocity—and dismissed Kough's counterclaim as res judicata (compulsory counterclaim should have been raised in Canada). The Ninth Circuit affirmed, noting that the Uniform Act in

California lacked a reciprocity element. (Affirmed.)

Gemstar Canada, Inc. v. George A. Fuller Co., 127 A.D.3d 689 (N.Y. App. Div. 2015). This case highlights the requirement of a foreign corporation registering to do business in a state before gaining access to its courts. Most if not all states have such laws, as does New York where the N.Y. Bus. Corp. Law § 1312 requires foreign corporations (sister-state and foreign country) to obtain a certificate of authority to do business in the state, and lacking that, bars them from using New York courts. In *Gemstar*, the original Canadian action was for breach of contract for New York-based Fuller Company's failure to pay for materials delivered from Canadian *Gemstar* (thus *Gemstar* was "doing business" in New York). When *Gemstar* filed its Canadian judgment in New York (which it did with a motion for summary judgment), Fuller objected that (1) the Canadian legal system was inadequate, and (2) *Gemstar* was barred from New York courts for failing to comply with § 1312. The trial court rejected both defenses and the appellate court affirmed, noting that § 1312 only applied to foreign corporations systematically doing business in New York. Because Fuller failed to establish *Gemstar*'s systematic business contacts in New York, § 1312 did not apply.

Wimmer Canada, Inc. v. Abele Tractor & Equip. Co., 299 A.D.2d 47 (N.Y. App. Div. 2002). This is the enforcement of a Quebec default judgment (the Canadian claim is unstated) against a New York corporation. *Wimmer* filed its Quebec judgment under New York's UFCMJRA (and again with a summary judgment motion and not a complaint). The trial court denied *Abele*'s defenses (Quebec's lack of jurisdiction and inconvenient forum) and rendered a judgment for local enforcement. The appellate court affirmed, spending most of its analysis on personal jurisdiction over *Abele* which claimed no contact with Quebec. Interestingly, the appellate court recites that New York's enforcement is based on comity in spite of the Uniform Act being used. That raises a question whether the non-statutory comity is still available in New York.

Lenchyshyn v. Pelko Elec., Inc., 281 A.D.2d 42 (N.Y. App. Div. 2001): This case involves all Canadian parties where the Canadian judgment debtor had assets in New York. After obtaining a money judgment in Ontario, judgment creditors sought recognition and enforcement of judgment against bank accounts in New York. Judgment debtor objected to personal jurisdiction, not in Canada but in New York. Appellate Court held it immaterial to recognition and enforcement of foreign country money judgment whether there was any basis for exercise of personal jurisdiction over judgment debtors in the enforcing state as long as that state had in rem jurisdiction over the assets.

Canadian Imperial Bank of Commerce v. Saxony Carpet Co., 899 F.Supp. 1248 (S.D.N.Y. 1995): Quebec-based Elite made carpets for New York-based Saxony. Elite had borrowed money from Canadian Imperial Bank and used its accounts receivable as security for the loans. When Elite went out of business in 1988, the Bank foreclosed on the security which included an account receivable from Saxony (who'd had no prior dealings with the Bank). Saxony defaulted in the Quebec suit and when Bank filed for enforcement in New York, Saxony objected to personal jurisdiction because of its prior lack of contact with Bank. Saxony also attempted a two-fold collateral attack on the Canadian judgment, raising an affirmative defense of fraud and a counterclaim for defective carpeting furnished by Elite. The enforcing court found against Saxony on all points and granted summary judgment to Bank. This is an interesting discussion of personal jurisdiction standards where the US judgment debtor had some contacts with a third party in the foreign country, but none with judgment creditor.

Silver Star Alpine Meadows Dev. Ltd. v. Quinlan, No. A145358, 2016 WL 6649201 (Cal. Ct. App. Nov. 10 2016): The Quinlans, a California married couple, bought undeveloped property at a ski resort in British Columbia. Subsequent road installation and other improvements resulted in the six lots being on uneven terrain which would be considerably more expensive for the Quinlans to develop. The Quinlans believed they'd been the victims of a scam and refused to close on purchasing the six lots. Silver Star sued to collect and the Quinlans hired a Canadian lawyer and participated fully in the B.C. litigation, which they lost. The resulting BC judgment was for over \$ 1 million (Canadian dollars). The sales contract had a liquidated damages clause limiting damages to the deposit amount (less than \$ 200,000), but the Quinlans failed to raise that in the B.C. trial. When Silver Star filed to enforce in California, the Quinlans objected that the Canadian court's failure to issue a damage-limiting instruction (based on the liquidated damages provision) was a violation of California public policy. The enforcing court held that even if there were errors in foreign legal proceedings, it does not rise to a violation of the State's public policy, and the appellate court affirmed. Westlaw shows a red flag on this case but lists no negative treatment.

Alberta Sec. Comm'n v. Ryckman, No. N13J-02847, 2015 WL 2265473 (Del. Super. Ct. May 5, 2015): This is a UEFJA case that involves a Canadian judgment that was backdoored through Arizona, and raises the issue of whether the UFCMJRA permits otherwise valid defenses in such instances. The Alberta Securities Commission (ASC) brought an action against Canadian resident Ryckman for violating Canadian securities law by deceiving investors to trade at false prices. The Canadian court issued a judgment against defendant Ryckman, who then moved to Arizona. ASC filed the Canadian judgment in Arizona and the court there issued an Arizona judgment. Ryckman then moved to Delaware, and this time the ASC sought to enforce its Arizona judgment under the Delaware UEFJA. Ryckman objected that it was not a true Arizona

judgment but instead a Canadian public judgment that involved a penalty and therefore violate the Delaware UFCMJRA. The Delaware court disagreed and found instead (in a case of first impression) that it was bound to enforce the Arizona judgment through the U.S. Constitution's full faith and credit clause (as opposed to the UFCMJRA's statutory full faith and credit clause).

Pinnacle Arabians, Inc. v. Schmidt, 274 Ill. App. 3d 504, 505, 654 N.E.2d 262, 263 (1995). The Canadian judgment was for breach of contract for the purchase of horses. An Illinois court recognized the judgment and rejected defendant's objections of the rendering court's lack of personal jurisdiction and extrinsic fraud. The opinion refers at least twice to the enforcement process being one of registering the Canadian judgment, although it also notes that the judgment creditor did so with a petition.

United Steel Workers, Local 1-1000 v. Forestply Indus., Inc., 702 F. Supp. 2d 798 (W.D. Mich. 2010): This involves enforcement of arbitration awards and judgments for breach of a collective bargaining agreement in Canada. USW is a Canadian union whose members work for Forestply, a Michigan-based company. Labor disputes arose and USW obtained to arbitration awards which it reduced to judgment in two cases in Canada, one for workers who were laid off (\$15,932) and another for vacation pay (\$170,174.14). Both those judgments were against Forestly directly. USW then obtained a third judgment against Neil Jorgensen, a Forestply officer, on a finding that he was directly liable for a portion of the vacation pay award (\$61,062.14). When USW sought to enforce these three judgments in Michigan, it found that Forestply had ceased doing business and was insolvent. USW then sued Forestply two principals—Neil Jorgensen and Quay Jorgensen—on the Canadian judgments. That is, there were two Canadian judgments against Forestply, not naming any individual defendants, and one Canadian judgment against Neil Jorgensen individually. USW moved for summary judgment on all three Canadian judgments. The Michigan court granted summary judgment on the \$61,062.14 judgment against Neil Jorgensen because it was a final judgment for a sum of money. The Michigan court denied summary judgment on the other two Canadian judgments because they were being enforced against the two principals (Neil and Quay) who were not named in the Canadian judgments. Those judgments were scheduled for trial on disputed facts whether Neil and/or Quay was a principal and thus liable for Forestply's judgment debt.

Monks Own Ltd. v. Monastery of Christ In Desert, 2006-NMCA-116, 140 N.M. 367, 142 P.3d 955, aff'd, 2007-NMSC-054, 142 N.M. 549, 168 P.3d 121 (2006). Canadian corporation Monks Own and another Canadian plaintiff sued defendant Monastery of Christ (a New Mexico corporation) in Ontario for breach of contract on purchased goods. Monastery defaulted. The Canadian plaintiffs then filed an enforcement action under New Mexico's UFMJRA, and

Monastery argued that it was not subject to personal jurisdiction in Ontario. Canadian plaintiffs responded that Monastery had waived any objection to Ontario jurisdiction by failing to raise it in the Ontario action. The enforcing court in New Mexico rejected that argument, allowed Monastery to make its objection to personal jurisdiction in Ontario, but also found Monastery amenable to Ontario jurisdiction. The New Mexico court of appeals affirmed.

Seale & Assocs., Inc. v. Vector Aerospace Corp., No. 1:10-CV-1093, 2010 WL 5186410, at *2 (E.D. Va. Dec. 7, 2010). This is a recognition for preclusion purposes rather than a money-judgment enforcement. Plaintiff Seale & Associates is a Virginia corporation that provides valuation estimates for the sale or purchase of businesses. Seale claimed to have been hired by Vector for an estimate regarding Vector's sale of its subsidiary ATI. When Vector refused to pay for Seale's services, Seale sued Vector in Ontario. Seale lost that first action, based on the court's findings that the parties' agreement was indefinite as to both services and fee. Seale then sued Vector in a Virginia court, and Vector raised the Ontario judgment as preclusive. The Virginia court (1) found that the Ontario judgment qualified under Virginia's UFCMJRA, (2) analyzed how much of the Ontario judgment should be recognized and whether that was enough to create preclusion (which it was), and (3) accordingly dismissed Seale's Virginia lawsuit against Vector.

Frymer v. Brettschneider, 696 So.2d 1266 (Fla. App.—4th Dist. 1997): Florida court upheld a Canadian judgment in a probate matter, rejecting a party's objection that the Canadian judgment's filing in Florida did not strictly comply with Florida's Uniform Out-of-Country Foreign Money-Judgment Recognition Act, Fla. Stat. sec. 55.601 et seq. The court of appeals affirmed on a finding that although the filing did not comply with every detail, it "substantially complied with the act's notice requirements." *Id.* at 1267. The case also observed that the foreign country judgment act's purpose was "not so much for the purpose of establishing a procedure for enforcement of a foreign country's judgment in a Florida court, but rather to ensure that a Florida court's judgment will be enforced abroad." *Id.*

Syncrude Canada Ltd. v. Highland Consulting Group, Inc., 916 F. Supp. 2d 620 (D. Md. 2013): This case concerns adequacy of foreign service from Canada under the Hague Convention. After Syncrude obtained an Alberta default judgment for \$1,343, 871.34 against two Maryland corporations, it filed to enforce in Maryland. Judgment debtors objected to Canadian jurisdiction based on service of process. The enforcing court rejected that, finding that the court in Alberta had personal jurisdiction over the judgment debtors pursuant to service under the Hague Convention (in spite of the service recipient being unauthorized under Maryland law), and further

that the enforcement based on such service did not violate Maryland public policy.

Don Dockstader Motors, Ltd. v. Patal Enterprises, Ltd., 794 S.W.2d 760 (Tex. 1990): Canadian judgment creditors filed their final British Columbia judgment for enforcement in Texas against Patal, who objected to the procedure's constitutionality. Based on the theory stated cases like in *Detamore v. Sullivan*, 731 S.W.2d 122 (Tex. App.—Hous. [14th Dist.] 1987, no writ), the trial court agreed with Patal and dismissed the action and the court of appeals affirmed. The Texas Supreme Court reversed, upheld the Texas UFMJRA's constitutionality, and remanded to the trial court to determine compliance with the Act's procedures regarding a Canadian judgment. Also held that the Texas UFMJRA authorizes two filing procedures, one under the UEFJA and the other as a common law filing.

Nicholas v. Environmental Systems (International) Limited, 499 S.W.3d 888 (Tex. App. — Hous. [14th Dist.] 2016): Enforced Canadian judgment over objections that (1) the Texas UFMJRA was not strictly complied with (judgment debtor's last known address was not furnished), (2) finality of the Canadian judgment, (3) authentication, and (4) fraud. The court also rejected judgment debtor's request for additional findings of act and conclusions of law.

Reading & Bates Const. Co. v. Baker Energy Resources Corp., 976 S.W.2d 702 (Tex. App.—Hous. [1st Dist. 1998, no pet.): Enforced Canadian judgment over objections that the Canadian court's measure of damages for patent infringement was excessive and violated public policy, and for lack of reciprocity. Also addressed the judgment debtor's related judgment from a Louisiana court that declared the Canadian judgment executory and thus unenforceable. The Texas court found an exception to full faith and credit and rejected the Louisiana judgment as an improper infringement on Texas's power to determine the enforceability of foreign judgments. Also addresses fact/law distinction re: full faith and credit.

Clarkson Co., Ltd. v. Gaklis, Civ. A. No. 85–1318–N., 1986 WL 11877 (D. Mass. Aug. 6, 1986): Considers two judgments, enforcing one and rejecting the other for lack of finality. Plaintiff was a Canadian bankruptcy trustee pursuing the debtor's assets, and filed these two Canadian judgments in federal court in Massachusetts, seeking enforcement under the Massachusetts act governing foreign country money judgments, the name of which isn't specified because the federal court opted to use federal common law under *Hilton v. Guyot*. The court noted, however, that the standards for recognition and enforcement under Massachusetts law and federal common law were similar. The court found one finalized Canadian judgment appropriate for enforcement and the second one unenforceable for lack of finality.

Desjardins Ducharme v. Hunnewell, 585 N.E.2d 321 (Mass. 1992): Judgment creditor Ducharme and judgment debtor Hunnewell were co-plaintiffs in Canadian litigation. Ducharme obtained two Canadian judgments against Hunnewell for court costs and then sought enforcement in Massachusetts. Hunnewell objected that the Canadian judgments for costs (1) were not properly assessed, and (2) were not enforceable under the Massachusetts foreign country judgments act because they were penalties that violated the United States Supreme Court's ruling in *The Antelope*, 23 U.S. (10 Wheat.) 66, 123, 6 L.Ed. 268 (1825). The trial court ruled in Ducharme's favor on both judgments (finding them to be remedial instead of penalties), and the Massachusetts supreme court affirmed..

Burelle v. Gilbert, 9 Misc.3d 127(A), 806 N.Y.S.2d 443 (2005): Enforced a Canadian judgment regarding a marital property distribution in a Canadian divorce. The enforcing court disallowed judgment debtor's objections that she was not subject to the rendering court's jurisdiction, and that the enforcement violated the New York act's limitation regarding family support (finding that this was not a support judgment, but instead a money judgment for equitable property distribution).

Dolec Consultants, Inc. v. Lancer Litho Packaging Corp., 666 N.Y.S.2d 458, 245 A.D.2d 415 (1997): Enforced a Quebec default judgment for \$15,524 over objections to the rendering court's jurisdiction. The enforcing New York trial court ruled in the judgment creditor's favor and the court of appeals affirmed, noting that the judgment debtor's objection to jurisdiction (non-receipt of the Quebec summons) was conclusory, and further noting that the record showed that judgment debtor had transacted business in Quebec.

Larwex Enterprises, Inc. v. Bacharach, 755 N.Y.S.2d 631, 302 A.D.2d 565 (2003): In this enforcement of a Quebec judgment for a loan default, on March 13, 2001 the court denied enforcement on public policy grounds including usury. On December 7, 2001, the court reversed the prior ruling and ordered the judgment enforced, and also denied judgment debtor's objections to personal jurisdiction. See *Larwex Enterprises, Inc. v. Bacharach*, No. 11503/00, 2001 WL 1768417 (N.Y. Sup. 2001, Dec. 7, 2001). The instant ruling in 2003 affirms the December 7, 2001 judgment. As with several other New York cases, the judgment creditor filed the enforcement action as a motion for summary judgment rather than a complaint, which the court noted but did not comment further on. (A Connecticut court rejected this approach in *Showmart Management v. Satra Arts Intern.*, below.)

CANADIAN JUDGMENTS NOT RECOGNIZED

1. Canadian Judgments Rejected For Non-Compliance With Uniform Act

Showmart Management v. Satra Arts Intern., No. CV93 0135507 S, 1994 WL 67739 (Ct. Super., Feb. 22, 1994): Enforcing court rejected plaintiff's UFMJRA filing because it was submitted as a motion for summary judgment rather than a complaint. Plaintiff filed its summary judgment motion under what it claimed was the authority of both the UEFJA and the UFMJRA. In rejecting the filing, the court did not discuss the inappropriateness of the UEFJA filing, and to the contrary implied that it could have been done if filed correctly

Kitchens Intern., Inc. v. Evans Cabinet Corp., Ltd., 413 N.J. Super. 107, 993 A.2d 252 (2010): Drawn out dispute in Quebec, Georgia, New York and New Jersey regarding breach of contract with a manufacturer. One party obtained a Canadian judgment and sought to (1) enforce it in the US, and (2) preclude defendant's parallel US actions. Defendant objected to the Canadian judgment on personal jurisdiction grounds. The New Jersey trial court upheld the Canadian judgment but the court of appeals reversed, citing the a federal action in the First Circuit where defendant's personal jurisdiction objection was pending, and noting that the Canadian judgment was not conclusive. Among other points, the court here held that a foreign country money judgment may use the filing procedure under the UEFJA. For parallel case, see *Evans Cabinet Corp. v. Kitchen Int'l, Inc.*, 584 F. Supp.2d 410 (D. Mass. 2008), *rev'd*, 593 F.3d 135 (1st Cir. 2010) (fact issues regarding personal jurisdiction precluded summary judgment).

Her Majesty the Queen in Right of Province of British Columbia v. Gilbertson, 597 F.2d 1161 (9th Cir. 1979): Not a Uniform Act enforcement. This is a tax collection judgment against five defendants refused enforcement. Enforcement was attempted under comity and *Hilton v. Guyot* rather than a statute, although that would not have made any difference because of the UFMJRA's scope that did not include judgments based on taxes or penalties. Also a good discussion of reciprocity.

Royal Bank of Canada v. Trentham Corp., 665 F.2d 515 (5th Cir. 1981): Canadian corporation sued for recognition and enforcement of a judgment entered by a Canadian court that Texas corporation Trentham was liable on guaranty agreements. Trentham objected on reciprocity grounds but the lower court ruled in Royal Bank's favor, finding that reciprocity was disfavored. Trentham appealed, and during that appeal Texas law changed with Texas's 1981 adoption of a

revised Uniform Act. In that adoption, the Texas legislature included reciprocity as a discretionary ground for non-recognition. Based on this, the 5th Circuit reversed and remanded to the trial court for a determination if reciprocity should be applied in this case.

Attorney General of Canada v. Gorman, 2 Misc. 3d 693 (N.Y.C. Civ. Ct. Queens County 2003). Judgment creditor Attorney General filed an enforcement action (by summary judgment motion) in New York for a judgment for \$15,111.60. In doing so, AG failed to provide any statement of the Canadian judgment's nature or underlying facts. The AG also failed to state the grounds for original Canadian jurisdiction over the judgment debtor and failed to attach any supporting evidence. The enforcing court noted that New York's review of foreign country judgments was "ministerial," and found that it could excuse some of AG's minimal filing, but that it could not overlook AG's failure to meet its burden of showing Canadian jurisdiction. The enforcing New York court denied the motion for summary judgment with leave to amend the filing.

Attorney Gen. of Canada on Behalf of Her Majesty The Queen in Right of Canada v. Tysowski, 118 Idaho 737, 800 P.2d 133 (Ct. App. 1990). Canadian government obtained a judgment in Alberta for Tysowski's default on student loans. Canada then filed the judgment in an Idaho state court which granted a summary judgment for Canada. The Idaho court of appeals reversed on statute of limitations grounds. The court first noted that the UEFJA limitation period did not apply, but that Idaho's four-year catchall statute did apply.

Vrozos v. Sarantopoulos, 195 Ill. App. 3d 610, 552 N.E.2d 1093 (1990). This case raises several interesting issues regarding defenses. First is the time to answer and object to the foreign judgment's filing (a registration process in Illinois). The original judgment was for personal injury from an Ontario court, in the amount of \$217,947. When judgment creditor filed it in Illinois, judgment debtor's lawyer asked opposing counsel for 50 days extra time to respond. During that sixty days, judgment debtor's lawyer failed to file an answer or defenses with the Illinois court. That led to a final judgment, and when judgment debtor moved to set it aside and an opportunity to plead, judgment creditor's lawyer objected. The trial court ruled for judgment creditor but the appellate court reversed on a finding that judgment debtor had been diligent in defending the enforcement. The trial court also ruled against judgment creditor on defenses of limitation, and lack of notice of the Canadian action. The court of appeals reversed both of those as well, remanding for further determination of those defenses.

Saskatchewan Mut. Ins. Co. v. CE Design, Ltd., 865 F.3d 537 (7th Cir. 2017). This is a complex case involved an assigned insurance claim. Illinois-based CE Design sued Canadian company

Homegrown for consumer claims, and the parties settled for \$5 million. Homegrown had failed to notify its insurer (Saskatchewan Mutual), but then assigned its policy claim against the insurer to CE Design. CE Design attempted enforcement in Canada and failed, resulting in a Canadian judgment for the insurer for \$1,000 in costs. The Canadian insurer then sought to enforce that judgment in federal court in Illinois. The district court dismissed the case for lack of subject matter jurisdiction (none under CAFA or regular diversity), and the 7th Circuit affirmed.

Johnson v. Ventra Grp., Inc., 191 F.3d 732 (6th Cir. 1999). Johnson obtained a judgment in Ontario against Canadian company Manutec for breach of an employment contract. After that, Manutec went through corporate reorganization and became Ventra (which in a prior structure had been Manutec's parent). Johnson filed his Canadian judgment in state court in Michigan, and Ventra removed it to federal court. To collect, Johnson had to prove that as a matter of Canadian law, Ventra was liable as successor to Manutec's assets. The trial court ruled against Johnson on this and the 6th Circuit affirmed.

Isack v. Isack, 274 Mich. App. 259, 733 N.W.2d 85 (2007). Example of the UFMJRA being used to seek enforcement of a family law judgment. In a Canadian divorce proceeding, Husband obtained a judgment for discovery sanctions against Wife, with costs and attorney fees of \$110,000. Husband then filed the Canadian judgment in state court in Michigan. Wife objected that (1) the sanctions judgment did not qualify under the UFMJRA because it was a fine or penalty, and (2) she didn't have notice of the Canadian sanctions proceeding. The trial court ruled that (1) the sanctions order did qualify as a money judgment, but (2) was unenforceable for lack of notice. The appellate court affirmed. Although this Canadian judgment failed, the reasoning supports enforcement of certain foreign family law judgments.

Maxwell Shuman & Co. v. Edwards, 191 N.C. App. 356, 663 S.E.2d 329 (2008): Maxwell Shuman & Co is a Canadian lawfirm which represented US citizen Edwards in a child custody action. Part of the MS & Co bill was contingent on results. When Edwards did not pay, MS & Co obtained a British Columbia judgment against him and filed for enforcement in North Carolina. Edwards objected that the contingent fees violated North Carolina public policy. The North Carolina trial court ruled against Edwards and ordered enforcement of the entire Canadian judgment. The North Carolina court of appeals reversed in part, ordering that the portion of the Canadian judgment based on a contingency fee was uncollectible as a violation of public policy. This case also explains how North Carolina deems the NCFMJRA (North Carolina UFMJRA) as merely authorizing recognition and then deferring to the UFMJRA for registration and enforcement purposes.

Jaffe v. Accredited Sur. & Cas. Co., 294 F.3d 584 (4th Cir. 2002). This is a Canadian default judgment against a bail bond company and its agents for kidnapping (apprehending) plaintiff. Virginia refused to enforce the Canadian judgment because a Florida court (where it was originally brought for enforcement) refused to give it recognition. Florida would not recognize the Canadian judgment because doing so would contravene Florida's public policy which promotes the apprehending of fugitives.

EOS Transport Inc. v. Agri-Source Fuels LLC, 37 So.3d 349 (2010): This is an action by a British Columbia transport company against Agri-Source, Florida customer. Agri-Source bought several 13,000 gallon steel tanks from a supplier in California. The tanks were located in Canada, so Agri-Source hired EOS to deliver them to Florida. When Agri-Source disputed the shipping bill, EOS sued in British Columbia and obtained a default judgment when Agri-Source did not respond. When EOS filed the judgment in Florida, Agri-Source objected that it was not subject to Canadian jurisdiction. The trial court sustained Agri-Source's objection and the Florida appellate court affirmed, analyzing personal jurisdiction under both Canadian and Florida law.

Detamore v. Sullivan, 731 S.W.2d 122 (Tex. App.—Hous. [14th Dist.] 1987, no writ): reversed lower-court enforcement of Canadian judgment and held the Uniform Foreign Country Money-Judgment Recognition Act unconstitutional because it had no provisions for judgment debtor to receive notice and to have opportunity to assert grounds for nonrecognition of foreign country money judgment. This case overlooked the Act's requirement that a new lawsuit be filed as part of the recognition process, with the new lawsuit providing notice and defense features. This case did not go to the Texas Supreme Court, so there was no immediate opportunity to reverse it, but the Texas Supreme Court disapproved of it in *Don Dockstader Motors, Ltd. v. Patal Enterprises, Ltd.*, 794 S.W.2d 760 (Tex. 1990).

K & R Robinson Enterprises Ltd. v. Asian Export Material Supply Co., Inc., 178 F.R.D. 332 (1998): K & R is a British Columbia company specializing in scrap metal. It sold scrap to Massachusetts company Asian Export and a payment dispute resulted. K & R obtained a British Columbia default judgment for \$ 343,616.33 which it filed for enforcement in a Massachusetts federal district court. Asian Export objected to adequacy of notice of the Canadian suit, and that Asian Export owner Sally Lim was not amenable to Canadian jurisdiction. The enforcing court found in judgment debtors' favor on both objections, specifically that fact issues remained regarding service of process, both in Canada and in Massachusetts, and that Sally Lim was not amenable to jurisdiction in British Columbia.

2. Canadian Judgments Rejected Under United States Federal Law

Communications Decency Act, 47 U.S.C. §§ 230 et seq (2012) is Congress's attempt in 1996 to regulate indecent and obscene content on the internet. The CDA has features that both limit internet communication (e.g., obscene material to recipients under 18), and protect sharing of information. Among other features, the CDA reverses the common law rule for defamation that makes a re-publisher liable. That is, under the CDA a web hoster is not liable for content posted by third parties.

Securing the Protection of our Enduring and Established Constitutional Heritage (SPEECH) Act, 28 U.S.C. §§ 4101 et seq (): Also known as the Libel Tourism Act, the SPEECH Act limits the enforcement of foreign country judgments for defamation. To enforce such a foreign judgment, the judgment creditor must show that the foreign law offers at least as much protection for speech as that protected by our First Amendment and resulting case law.

Global Royalties, Ltd. v. Xcentric Ventures, LLC, No. 07-956-PHX-FJM, 2007 WL 2949002 (D. Ariz. Oct. 10, 2007): This is not a money judgment claim but instead an attempt to enforce an injunction regarding defamatory statements on defendant's website. Plaintiffs are a Canadian corporation (Global) and its principal (Hall), and defendant is an Arizona based LLC. The court did not mention a Uniform Act (because there's no money judgment) and instead applied the Restatement 2d of Conflict of Laws and the Restatement 3d of Foreign Relations Law. Under both it found the Canadian order unenforceable because it was not final, and because injunctions are ineligible for enforcement. The court also considered the Communications Decency Act, 47 U.S.C. §§ 230 et seq., which defendant raised as an affirmative defense. Under the CDA, the court found defendant immune for mere website postings by third parties, and that plaintiffs would have to show defendants' participation in the defamation for it to be actionable.

Pontigon v. Lord, 340 S.W.3d 315 (Mo. Ct. App. 2011): Missouri resident Lord, who had immigrated from the Philippines, wrote an autobiography which included a story about a fraudulent transaction in the Philippines. The fraud story implicated Lord's cousin, Pontigon, who had since immigrated to Ontario. Pontigon was able to download the autobiography on her computer in Ontario, and based on that sued Lord for defamation in an Ontario court. When Lord defaulted, the Ontario court issued a judgment which Pontigon filed for enforcement in Missouri. The Missouri trial court ordered the judgment "registered" (see below), but the Missouri Court of Appeals reversed on two grounds. First, the trial court failed to consider whether the Canadian defamation law afforded minimal free speech as required by the SPEECH

Act, 28 U.S.C. §§ 4101 et seq., and second, Pontigon’s filing in Missouri did not include a properly certified and authenticated copy of the Canadian judgment. The court’s discussion of Missouri law included both the Missouri UEFJA and the Missouri UFMJRA, which are apparently used in tandem to allow registration of foreign country judgments. Note that I have not researched this further in Missouri law to verify the tandem use, but the trial court did allow “registration” and the court of appeals did not reject that terminology.

Trout Point Lodge, Ltd. v. Handshoe, 729 F.3d 481 (5th Cir. 2013): Mississippi resident Handshoe runs the website Slabbed.org on which he made a series of derogatory statements about Nova Scotia-based Trout Point Lodge and its owners. Trout Point sued Handshoe for defamation in a Nova Scotia court and obtained a default judgment which Trout Point then “enrolled” in a state court in Mississippi. Handshoe removed the case to federal court and raised defenses under the SPEECH Act. The trial court ruled in Handshoe’s favor and the Fifth Circuit affirmed, finding that Trout Lodge failed to show that (1) Canadian law offered sufficient free speech protection, and (2) Trout Lodge would have won its defamation claim in a Mississippi court. The 14-page opinion provides a good analysis of the SPEECH Act.

Investorshub.com, Inc. v. Mina Mar Group, Inc., Case No. 4:11cv9–RH/WS, 2011 WL 12506239 (N.D. Fla. June 20, 2011): This is a Consent Judgment entered after the Canadian judgment creditor conceded that its Ontario defamation judgment violated the SPEECH Act and was not enforceable in the United States. Investorshub.com is a website based in the United States, which posted derogatory comments about Mina Mar Group, based on Ontario and having a subsidiary in Texas. MinaMar obtained an Ontario default judgment against Investorshub and other defendants which it then filed in a Florida state court. In response, Investorshub brought this action in federal court seeking a declaratory judgment for the Canadian judgment’s unenforceability under the SPEECH Act and under the Florida Uniform law. During the pre-trial phase, MinaMar conceded and the court entered a declaratory judgment. This case is an interesting and questionable use of a collateral attack on the state court filing, with the federal court addressing an issue that could have been filed in the state action. This may violate various federal abstention doctrines, but those issues weren’t raised.

3. Collateral Attacked on Judgment Filings

Drake v. Brady, No. A08-2137, 2009 WL 2928157, at *5 (Minn. Ct. App. Sept. 15, 2009). This is not an enforcement action per se but is closely intertwined with one. It illustrates judgment debtor’s collateral attack on an enforcement action. This involved two Canadian default judgments from small claims courts against two US couples for unpaid bills to a Canadian resort.

The judgment creditor filed the two Canadian small claims defaults in in two Minnesota counties against the respective couples. The judgment debtors then filed a separate lawsuit in Minnesota for deceptive trade practices and for a declaration of the Canadian judgments' unenforceability. The Minnesota trial court (the collateral attack court, not the enforcing court) dismissed the judgment debtors' declaratory judgment claim and found it had no jurisdiction over the Canadian defendant for the judgment debtors' deceptive trade claim. The Minnesota appellate court affirmed the dismissal of the declaratory judgment action but reversed the decision regarding Minnesota jurisdiction over the Canadian parties regarding the deceptive trade claim. Note that the Canadian parties raised the defense of preclusion (from the Canadian judgment) to the deceptive trade claim. The Minnesota court of appeals found the preclusion claim was inadequately argued below and remanded on that point.

Investorshub.com, Inc. v. Mina Mar Group, Inc., Case No. 4:11cv9–RH/WS, 2011 WL 12506239 (N.D. Fla. June 20, 2011): See above for description.