

From: Richman, Steven M.

Sent: Tuesday, October 24, 2017 8:08 AM

To: Lucy Grelle; Paul George; Lisa Jacobs; Kathy Patchel; Liza Karsai; Arthur Close; Russell Getz; Clark Dalton; Peter Lown; Darcy McGovern; Kathryn Sabo

Cc: Pfautz, Leanne

Subject: RE: Registration of Foreign Judgments to Harmonize the Law of Canada and the United States: materials for October 27-28, 2017 drafting committee meeting

Dear All:

I previously advised Lucy that I could not make this initial meeting, as I am in Miami for the ABA Section of International Law fall conference, which dates were set well over a year ago and as chair of the Section, I am obligated of course to attend and lead.

I would like to call to your attention the New Jersey procedure for docketing non-US foreign country money judgments that does not require an action to register, but rather a straightforward filing. The procedure is outlined, with forms, on the NJ courts website: http://www.njcourts.gov/forms/10519_docket_foreign_judgmts.pdf. You will note that case law has also held that foreign country money judgments are enforceable in the same manner as the judgment of a sister state entitled to full faith and credit, subject to the substantive requirements.

I would also note that regarding the issue of mixed judgments, the ULC does have the Asset Freezing Order Act, on which drafting committee I served (and which had a Canadian ULC observer) to allow for recognition and enforcement of "Mareva injunctions." I cite the Asset Freezing Order Act because the ULC has already taken steps for uniform recognition and enforcement in at least one area of non-US rulings, rather than relying on Hilton v. Guyot principles of comity, although this act has not yet been adopted by any state. Another proposal from the International Law Section has been for a model law allowing enforcement of non-monetary judgments, though this remains on hold pending progress on the Asset Freezing Order act. Recognizing that this latter point of addressing the non-monetary component of a judgment may be beyond the scope of this particular committee, and understanding the language about enforcement of mixed judgments "to the extent" that they comport with the statute, or in other words, to the extent the monetary component is enforced, nonetheless, if possible, I would urge that a compromise might be that non-monetary components can be combined to the extent that they are intertwined with the monetary component. In other words, if money is awarded as damages for trademark or copyright infringement, and there is an accompanying injunction against further infringement, it would seem sensible to enforce that in its entirety.

Please distribute these comments as appropriate; I have not copied the entire list, but the leadership on the US ULC side as it appeared from the roster, and the Canadian representatives, but the comments are open to all. Again, I regret my inability to attend this meeting.

Finally, Lucy, please note that my firm name and contact information is below; I have not been with Duane Morris for over two years so ULC records as to my contact information should be updated.

Thank you.

Steven M. Richman

CLARK HILL PLC

210 Carnegie Center | Suite 102 | Princeton, NJ 08540 | 609.785.2968 (main)
609.785.2911 (direct) | 609.785.2971 (fax) | 609.306.8762 (cell)
SRichman@clarkhill.com | www.clarkhill.com