IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

ALBERTA SECURITIES COMMISSION,	)	
Judgment Creditor,	)	
v.	)	Judgment Docket No. N13J-02847
LAWRENCE G. RYCKMAN,	)	
Judgment Debtor.	)	

Submitted: February 12, 2015
Decided: May 5, 2015

Upon Judgment Debtor's Motion to Vacate Judgment
DENIED

Upon Judgment Creditor's Motion to Compel
GRANTED

Upon Garnishee Studio One Media, Inc.'s Motion to Quash
DENIED

OPINION

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JOHNSTON, J.

PROCEDURAL CONTEXT

This case presents an issue of first impression in Delaware. The Alberta Securities Commission ("ASC"), the judgment creditor, brought this action against Lawrence G. Ryckman ("Ryckman"), the judgment debtor, to enforce an Arizona judgment, which originated in Canada. The ASC is a duly authorized and constituted administrative body for the Canadian government in Alberta. At the time of the Canadian judgment, Ryckman resided in Alberta, Canada. At the time of the Arizona judgment, Ryckman resided in Scottsdale, Arizona.

Ryckman has moved to vacate the ASC's action to enforce the Arizona judgment in Delaware pursuant to Superior Court Civil Rule 60. Ryckman argues the Arizona judgment is not entitled to full faith and credit under the United States Constitution and Delaware's Uniform Enforcement of Foreign Judgments Act ("UEFJA") because the Arizona judgment is a domesticated Canadian judgment. It is undisputed that Delaware could not directly domesticate the Canadian judgment because it would violate Delaware's Uniform Foreign-Country Money Judgment Recognition Act ("UFCMJRA").

In response, the ASC contends that even if Delaware could not directly domesticate the Canadian judgment, Delaware must enforce the Arizona judgment under the full faith and credit clause and the UEFJA.

On December 17, 2014, the ASC served a subpoena *duces tecum* directed to garnishee Studio One Media, Inc. ("Studio One") requesting: (1) a corporate designee for a deposition in Delaware pursuant to Superior Court Civil Rule 30(b)(6); and (2) certain documents pursuant to Superior Court Civil Rules 30(b)(6) and 45. On December 30, 2014, Studio One filed objections to every item requested. On January 5, 2015, the ASC filed a motion to compel the subpoena. On January 29, 2015, Studio One filed a motion to quash the subpoena.

UNDISPUTED FACTS

A hearing was held before the ASC in January 1996.[1] The ASC found that Ryckman had violated the Alberta Securities Act in his role as director and chairman of Westgroup when he deliberately engaged in a complex scheme that created a false and misleading appearance of trading designed to deceive investors to trade at artificial prices.[2] The ASC ordered Ryckman to resign any positions that he held as director or officer for any issuer; to cease serving as a director or officer for any issuer for 18 years; to cease trading in all securities for any issuer for 18 years; and to pay $492,640.14 (Canadian Dollars) in costs to the ASC.[3] On

[1] *In re Lawrence Gilbert Ryckman*, 5 ASCS 223 (Can. Jan. 18, 1996), http://www.albertasecurities.com/Notices%20Decisions%20Orders%20%20Rulings/Enforcement/Ryckman,_Lawrence_-_Reasons_-_1996-01-18_-__1571336.pdf.
[2] *In re Lawrence Gilbert Ryckman*, slip op. at 20.
[3] *Id.* at 29, 35.

January 18, 1996, the ASC obtained a valid judgment against Ryckman in Canada ("Canadian Judgment").[4]

In January 1997, Ryckman moved his residence from Canada to Scottsdale, Arizona.[5] The Superior Court of Arizona considered the pleadings and heard argument on the ASC's action to domesticate the Canadian Judgment in Arizona. The Arizona court granted the ASC's Motion for Summary Judgment and ordered judgment against Ryckman and his wife.[6] The court ordered judgment for $485,140.14 (Canadian Dollars) for the principal owed plus 10 percent per annum interest from the date of the Arizona judgment; $87,222.23 (Canadian Dollars) in past due interest; and $202.50 (U.S. Dollars) for recoverable court costs plus 10 percent per annum interest from the date of the Arizona judgment ("Arizona Judgment").[7]

Ryckman then appealed the lower court's decision to the Arizona Court of Appeals. The court of appeals affirmed the trials court's holding based on principles of comity. The court of appeals found that the Canadian Judgment was final, on the merits, and not procured by prejudice, fraud, unfairness, or

[4] *Id.* at 35–36. It is undisputed that the ASC had jurisdiction over the parties.
[5] It is undisputed that the Superior Court of Arizona had jurisdiction over the parties.
[6] *Alberta Sec. Comm'n v. Ryckman*, No. CV 99-04397 (Ariz. Super. July 10, 2000) (ORDER).
[7] *Id.*

irregularities in the foreign-country proceedings.[8] For purposes of the motions at issue, the validity of the Arizona Judgment is not disputed.

On July 31, 2013, the ASC filed a copy of the Arizona Judgment in Delaware, seeking to enforce the judgment pursuant to the UEFJA.[9]

It is undisputed that Delaware could not directly domesticate the Canadian Judgment for two reasons. First, the Canadian Judgment violates the UFCMJRA's statute of limitations. Delaware's UFCMJRA imposes a 15-year statute of limitations on foreign-country judgment recognition.[10] The Canadian Judgment was issued in 1996 and the instant action was filed in Delaware in 2013—a 17-year gap.[11]

Second, the Canadian Judgment constitutes a fine or penalty. The UFCMJRA "does not apply to a foreign-country judgment . . . to the extent that the judgment is: . . . [a] fine or other penalty."[12] The Canadian Judgment is a fine or penalty because the ASC ordered a pecuniary judgment on Ryckman to punish him for his Securities Act violations.

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[8] *Alberta Sec. Comm'n v. Ryckman*, 30 P.3d 121, 125–27 (Ariz. Ct. App. 2001).
[9] 10 *Del. C.* §§ 4781–4787.
[10] 10 *Del. C.* § 4811.
[11] Arizona's foreign-country judgment act equivalent does not impose such a limitation.
[12] 10 *Del. C.* § 4802(b)(2). The UFCMJRA does not define "fine" or "penalty." Under Black's Law Dictionary, "fine" means "[t]o impose a pecuniary punishment . . . ." BLACK'S LAW DICTIONARY 632 (6th ed. 1990). Under Black's Law Dictionary, "penalty" means "pecuniary punishment." BLACK'S LAW DICTIONARY 1133 (6th ed. 1990). Arizona's foreign-country judgment act equivalent does not impose such a limitation.

ANALYSIS

Motion to Vacate

The narrow issue presented is a matter of first impression in Delaware. Ryckman argues the enforcement action violates Delaware's UFCMJRA because the Canadian Judgment was not domesticated in Arizona under the UFCMJRA. Consequently, he contends the Arizona Judgment should be analyzed as a foreign-country judgment under the UFCMJRA, not a sister-state judgment entitled to full faith and credit.

Standard of Review

Superior Court Civil Rule 60(b) provides that a Court "may relieve a party . . . from a final judgment, order, or proceeding for. . . (6) any other reason justifying relief from the operation of the judgment." The "catch-all" clause in Rule 60(b)(6) vests power in the Court to vacate judgments in order to accomplish justice.[13] Relief under the catch-all clause requires "extraordinary circumstances."[14]

Full Faith and Credit Clause

Article IV, Section 1 of the United States Constitution states, in pertinent part: "Full Faith and Credit shall be given in each State to the public Acts, Records,

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[13] *Jewell v. Div. of Social Servs.*, 401 A.2d 88, 90 (Del. 1979). However, Rule 60(b) should not be used as a substitute for a motion for a new trial or for appeal from judgment. *Dixon v. Delaware Olds, Inc.*, 405 A.2d 117, 119 (Del. 1979).

[14] *See Jewell*, 401 A.2d at 90. Superior Court Civil Rule 60(b) tracks Federal Rule of Civil Procedure 60(b). *Word v. Balakrishnan*, 2004 WL 780134, at *3 n.9 (Del. Super.). Delaware has adopted the Federal standard that Rule 60(b)(6) applies in "extraordinary circumstances." *See Jewell*, 401 A.2d at 90.

and judicial Proceedings of every other State."[15] The Full Faith and Credit Act provides, in pertinent part:

> The records and judicial proceedings of any court of any . . . State . . . shall have the same full faith and credit in every court within the United States and its Territories and Possessions as they have by law or usage in the courts of such State . . . from which they are taken.[16]

Relevant Delaware Statutes

Delaware's statutory framework reflects a distinction between the circumstances that Delaware may enforce a sister-state judgment (pursuant to the UEFJA) and those in which Delaware may recognize a foreign-country judgment (pursuant to the UFCMJRA).[17]

UEFJA

The UEFJA governs enforcement of sister-state judgments.[18] The UEFJA is Delaware's version of a uniform act that nearly all states have adopted.[19] The UEFJA applies to any United States judgment, decree, or order which is entitled to full faith and credit.[20] Rather than subjecting a sister-state judgment to further judicial review, the UEFJA allows a judgment creditor simply to file an

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[15] U.S. CONST. art. IV, § 1.
[16] 28 U.S.C. § 1738.
[17] *See In re Trusts U/A/D December 30, 1996 & Trusts U/A/D January 13, 2006 Created by Farrell*, 2008 WL 5459270, at *5–6 (Del. Ch.).
[18] 10 *Del. C.* §§ 4781–4787.
[19] *See Reading & Bates Constr. Co. v. Baker Energy Res. Corp.*, 976 S.W.2d 702, 712 (Tex. Ct. App. 1998) (noting that forty-four states have adopted the UEFJA).
[20] 10 *Del. C.* § 4781. Under the UEFJA, "foreign judgment" means "any judgment, decree or order of a court of the United States or of any other court which is entitled to full faith and credit in this State." *Id. See Farrell Trusts*, 2008 WL 5459270, at *5–6.

authenticated copy of the foreign judgment with the Prothonotary.[21] Once the foreign judgment is filed, the Prothonotary must treat the foreign judgment in the same manner as a judgment of this Court.[22] By its express provisions and purpose, however, the UEFJA does not apply to foreign-country judgments.[23]

UFCMJRA

The UFCMJRA governs recognition of foreign-country judgments.[24] The UFCMJRA only applies to judgments rendered outside of the U.S.[25] The UFCMJRA applies when the foreign-country judgment "(1) [g]rants or denies recovery of a sum of money; and (2) [u]nder the law of the foreign country where rendered, is final, conclusive, and enforceable."[26] The UFCMJRA does not apply if the foreign-country judgment constitutes a fine or other penalty.[27] Similarly, recognition is not granted if the action seeking to recognize the foreign-country

[21] 10 *Del. C.* § 4782.
[22] *Id.*
[23] 10 *Del. C.* § 4781.
[24] 10 *Del. C.* §§ 4801–4812. Delaware adopted the UFCMJRA on June 11, 2011. The UFCMJRA amended Delaware's prior Uniform Foreign Money Judgment Recognition Act of 1962 to conform to the Uniform Act promulgated by the Uniform Law Commission in 2005. *See* H.B. 104, 146th Gen. Assemb., Reg. Sess. (Del. 2011). The UFCMJRA applies to all actions commenced on or after June 28, 2011. 10 *Del. C.* § 4812. Under the UFCMJRA, "'Foreign-country judgment' means a judgment of a court of a foreign country." 10 *Del. C.* § 4801(2).
[25] 10 *Del. C.* § 4801. Under the UFCMJRA, "'Foreign country' means a government other than: [t]he United States; [a] state, district, commonwealth, territory, or insular possession of the United States; or [a]ny other government with regard to which the decision in this State as to whether to recognize a judgment of that government's courts is initially subject to determination under the full faith and credit clause of the United States Constitution." 10 *Del. C.* § 4801(1). *See Farrell Trusts*, 2008 WL 5459270, at *5–6.
[26] 10 *Del. C.* § 4802(a).
[27] 10 *Del. C.* § 4802(b).

judgment is commenced more than 15 years from the effective date of the foreign-country judgment.[28]

Once a foreign-country judgment is recognized *under the UFCMJRA*, it is entitled to the same full faith and credit as a sister-state judgment.[29] However, Delaware's UFCMJRA is silent on whether a sister-state judgment that domesticates a foreign-country judgment—under recognition procedures *other than the UFCMJRA*—is entitled to the same full faith and credit.

The UFCMJRA "does not prevent recognition under principles of comity or otherwise of a foreign-country judgment not within the scope of [the UFCMJRA]."[30] Additionally, when interpreting the UFCMJRA, "consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it."[31]

[28] 10 *Del. C.* § 4811.
[29] 10 *Del. C.* § 4810.
[30] 10 *Del. C.* § 4807. "Comity permits one state to give effect to the laws of a sister state, not out of obligation, but out of respect and deference." *Columbia Cas. Co. v. Playtex FP, Inc.*, 584 A.2d 1214, 1218 (Del. 1991).
[31] 10 *Del. C.* § 4808. Thirty-two states enacted the 1962 Act. *Foreign-Country Money Judgment Recognition Act*, UNIFORM LAW COMMISSION, http://www.uniformlaws.org/Act.aspx?title=Foreign-Country Money Judgments Recognition Act (last visited Apr. 6, 2015). Twenty states enacted the revised 2005 Act, including Delaware. As of the date of this opinion, Arizona has not adopted either the 1962 Act or the 2005 Act.

Competing Public Policy Considerations

This Court must be concerned with establishing appropriate precedent and avoiding unintended consequences. There are several competing public policy considerations at issue in the instant litigation.

If the Court finds in favor of Ryckman, Delaware only could enforce a foreign-country judgment if the domestication originally is sought in Delaware. The ASC could be viewed as potentially circumventing the UFCMJRA. The ASC first filed the Canadian Judgment under Arizona's more lenient foreign-country judgment recognition procedures. The ASC then brought the Canadian Judgment to Delaware, arguing that it is a sister-state judgment entitled to full faith and credit. If the Court were to permit this procedure, future judgment creditors simply could file a judgment in a state that has not enacted the UFCMJRA, obtain a valid judgment, then rely on the UEFJA to obtain full faith and credit in a sister state.

Finding in favor of Ryckman would avoid this type of forum-shopping and "bootstrapping" a foreign-country judgment "through the back door" in Delaware. However, finding in favor of Ryckman potentially could require this Court to "pierce the veil" of an otherwise valid sister-state judgment entitled to full faith

and credit. Such a ruling would disturb Delaware's clear precedent instructing this Court to respect sister-state judgments without relitigating the case on the merits.[32]

The purpose of the UEFJA is to recognize sister-state judgments without requiring courts to look beyond undisputed validity. Finding in favor of the ASC would promote this purpose by granting full faith and credit to the Arizona Judgment without time- and resource-consuming inquiry into whether the Canadian Judgment could have been domesticated in Delaware in the first instance. However, such a ruling could risk increased forum-shopping and bootstrapping when a party seeks domestication of a foreign-country judgment.

Relevant Non-Delaware Case Law

A jurisdictional split exists as to whether a sister-state judgment domesticating a foreign-country judgment is entitled to full faith and credit in another state. As discussed below, three non-Delaware cases have addressed this issue.

In *Reading & Bates Construction Co. v. Baker Energy Resources Corp.*,[33] the Texas Court of Appeals refused to give full faith and credit to a Louisiana judgment obtained by domestication of a Canadian judgment, reasoning that it

[32] *See Pyott v. Louisiana Mun. Police Emps.' Ret. Sys.*, 74 A.2d 612, 615–18 (Del. 2013); *Playtex*, 584 A.2d at 1218.
[33] 976 S.W.2d 702 (Tex. Ct. App. 1998).

would interfere with important interests of Texas.[34] In *Bates*, Louisiana domesticated a Canadian judgment.[35] The judgment-holder then sought to enforce the Louisiana judgment in Texas under Texas' UEFJA.[36] Texas could not directly domesticate the Canadian judgment under its UFCMJRA.[37] Therefore, the Texas Court of Appeals refused to grant full faith and credit to the Louisiana judgment because the court would not "permit a party to clothe a foreign country judgment in the garment of a sister state's judgment and thereby evade the . . . [Texas] recognition process."[38]

Bates relied on *Tanner v. Hancock*[39] to deny full faith and credit to the sister-state judgment. In *Tanner*, the Kansas Court of Appeals refused to give full faith and credit to a Missouri judgment because "it appeared that the sole reason for the entire exercise was to avoid a motion for relief pending in the original lawsuit."[40] *Tanner* did not involve a foreign-country judgment.[41] Nevertheless, *Bates* relied on *Tanner* to explain that it is not within the UEFJA's spirit or intent

[34] *Id.* at 712–15 ("We have found no cases, and have cited to none, requiring that full faith and credit be given to a sister state's judgment when the underlying judgment was one of a foreign country." (emphasis omitted)).
[35] *Id.*
[36] *Id.*
[37] *Id.*
[38] *Id.* at 715 ("[The *Bates* Court] refuse[d] to allow Baker Energy to enforce its Canadian judgment 'through the back door.'").
[39] 619 P.2d 1177 (Kan. Ct. App. 1980).
[40] *Id.* at 714 (quoting *Tanner*, 619 P.2d at 1181).
[41] *See id.*

to compel a sister state to enforce a foreign-country judgment solely on the basis that it was recognized in a sister state.[42]

Conversely, in *Standard Chartered Bank v. Ahmad Hamad Al Gosaibi & Bros.*,[43] the Pennsylvania Superior Court gave full faith and credit to a New York judgment obtained by domestication of a Bahraini judgment.[44] In *Standard Chartered*, the trial court did not discuss the merits of New York's recognition of the Bahraini judgment.[45] Instead, the trial court focused on full faith and credit principles to enforce the sister-state judgment.[46] The appellate court affirmed the trial court's ruling, noting that "judgments recognized as valid after a full hearing in a sister-state are *res judicata*."[47] Consequently, "[s]tates must give full faith and credit to sister-state judgments 'even where the judgment violates the policy or law of the forum where enforcement is sought.'"[48]

In *Ahmad Hamad Al Gosaibi & Bros. v. Standard Chartered Bank*,[49] the District of Columbia Court of Appeals refused to give full faith and credit to a New

[42] *Bates*, 976 S.W.2d at 714.
[43] 9 A.3d 936 (Pa. Super. 2014).
[44] *Id.* at 942–46 (affirming the trial court's denial of the judgment debtor's motion to vacate the judgment).
[45] *Id.* at 939.
[46] *Id.*
[47] *Id.* at 945.
[48] *Id.* (quoting *Greate Bay Hotel & Casino, Inc. v. Saltzman*, 609 A.2d 817, 820 (Pa. Super. 1992)).
[49] 98 A.3d 998 (D.C. 2014).

York judgment obtained by domestication of a Bahraini judgment.[50] In *Ahmad*, the District of Columbia Court of Appeals stated that full faith and credit does not apply if the court domesticating the foreign-country judgment does not have personal jurisdiction over the parties.[51] The New York Supreme Court noted that it lacked personal jurisdiction over the judgment debtor.[52] Therefore, the District of Columbia Court of Appeals held that it was not *required* by full faith and credit to give automatic recognition to the New York judgment.[53] Instead, it could withhold enforcement and take a "fresh look" at the Bahraini judgment.[54]

After reviewing the judgment, the *Ahmad* Court refused to give full faith and credit to the New York judgment because of the nature of the judgment.[55] The New York judgment had been litigated on the merits in the Kingdom of Bahrain.[56] New York then recognized the Bahraini judgment under its foreign-country recognition act.[57] The District of Columbia Court of Appeals explained that requiring litigants to obtain recognition of foreign-country judgments in each United States jurisdiction where they seek to enforce them could result in negative

[50] *Id.* at 1004 (explaining that the parties and judgment in *Ahmad* are the same parties and judgment at issue in the Pennsylvania case, *Standard Chartered*; however, the District of Columbia Court of Appeals stated it was not bound by the Pennsylvania decision).
[51] *Id.* at 1004–05.
[52] *Id.* at 1003, 1005–06 (explaining that the New York Supreme Court recognized the Bahraini judgment despite the lack of personal jurisdiction because the debtor failed to timely raise the personal jurisdiction objection; therefore, the debtor waived it).
[53] *Ahmad*, 98 A.3d at 1006.
[54] *Id.*
[55] *Id.* at 1007–08.
[56] *Id.* at 1008.
[57] *Id.*

policy implications.[58] The court explained that such a matter should be addressed by federal statute or treaty.[59]

Delaware Case Law

While no Delaware court has considered the precise issue presented in this case, the Delaware Supreme Court recently examined considerations similar to those stated by the *Standard Chartered* Court. In *Pyott v. Louisiana Municipal Police Employees' Retirement System*,[60] the Delaware Supreme Court reversed the Court of Chancery's refusal to dismiss a stockholder derivative action after a California federal court had dismissed a similar action against the same directors, and essentially the same complaint.[61] The Delaware Supreme Court focused on principles of full faith and credit.[62]

The *Pyott* Court reasoned that even if enforcing another state's judgment is repugnant to Delaware law and policy, the sister state's judgment is entitled to full faith and credit.[63] The Court reasoned:

> Under this Court's precedents, the undisputed interest that Delaware has in governing the internal affairs of its corporations must yield to the stronger national interests that all state and federal courts have in respecting each other's judgments. The United States Supreme Court has held that the full faith and credit obligation is "exacting" and that

[58] *Id.*
[59] *Id.*
[60] 74 A.2d 612 (Del. 2013).
[61] *Id.* at 615–18.
[62] *Id.* at 615–16.
[63] *Id.* at 616.

there is "no roving 'public policy exception' to the full faith and credit due judgments."[64]

Similar principles applied in *Columbia Casualty Co. v. Playtex FP, Inc.*[65] further guide this Court's analysis. In *Playtex*, a manufacturer sought reimbursement against its former insurer, based on a case brought against the manufacturer in Kansas.[66] The insurer moved to bar relitigation of an issue that arose in the Kansas litigation under the doctrine of collateral estoppel.[67] Under Kansas law, the issue would not be precluded because Kansas still applies the doctrine of mutuality.[68] Conversely, under Delaware law, the issue would be precluded because Delaware has abolished mutuality.[69] The Delaware Supreme Court held that, although Delaware had abandoned the requirement of mutuality as a prerequisite to collateral estoppel, the principle of comity required the Court to apply mutuality because Kansas had not abolished it.[70]

Parties' Contentions

Ryckman argues that the Arizona Judgment is not entitled to full faith and credit in Delaware. First, Ryckman contends the Canadian Judgment cannot be domesticated under the UEFJA in either Arizona or Delaware because the UEFJA

[64] *Id.* (quoting *Baker v. Gen. Motors Corp.*, 522 U.S. 222, 232–33 (1998)).
[65] 584 A.2d 1214 (Del. 1991).
[66] *Id.* at 1215.
[67] *Id.*
[68] *Id.* at 1216–17.
[69] *Id.* at 1217.
[70] *Id.* at 1217–19.

is applicable only to sister-state judgments—and not to foreign-country judgments. The ASC does not dispute that Delaware could not directly recognize the Canadian Judgment pursuant to the UEFJA.

Second, Ryckman asserts the ASC unlawfully circumvented Delaware's UFCMJRA. It is undisputed that the Canadian Judgment could not be directly domesticated pursuant to Delaware's UFCMJRA because: (1) it was issued in 1996 and is thus outside the UFCMJRA's 15-year statute of limitations; and (2) it constitutes a fine or penalty. Ryckman argues the ASC cannot domesticate the Canadian Judgment in Arizona—which has not adopted the UFCMJRA—then seek to "back door" the judgment into Delaware by enforcing the Arizona Judgment pursuant to the full faith and credit clause and the UEFJA. Ryckman contends *Bates* and *Ahmad* prohibit such "bootstrapping" tactics.

In opposition, the ASC first argues that even assuming Delaware cannot directly recognize the Canadian Judgment under the UFCMJRA, Delaware principles of full faith and credit require Delaware to enforce the Arizona Judgment.

Second, the ASC contends that *Ahmad* is factually inapplicable and was wrongly decided on the law. The ASC notes that the New York Supreme Court in *Ahmad* recognized that it lacked personal jurisdiction over the judgment debtor. However, in this case, the Arizona courts had personal jurisdiction over Ryckman

because he resided in Arizona at the time the ASC filed the recognition action. The ASC further asserts that the *Ahmad* Court wrongfully followed the *Bates* holding because independent review of the sister-state judgment in both cases violated the full faith and credit clause.

Finally, the ASC argues the non-Delaware case, *Standard Chartered*, and the Delaware cases, *Pyott* and *Playtex*, are dispositive of the issue presented. The ASC contends *Pyott* and *Playtex* echo the same full faith and credit principles as *Standard Chartered*, which granted full faith and credit to a foreign-country judgment domesticated in New York.

The Arizona Judgment is Entitled to Full Faith and Credit

Pyott controls the issue presented in this case. Even though Delaware could not directly domesticate the Canadian Judgment, this Court's analysis is guided by the Delaware Supreme Court's ruling that Delaware public policy must yield to the stronger national interest in giving full faith and credit to sister-state judgments. The ASC obtained a valid judgment on the merits against Ryckman in Canada. The ASC then obtained a valid domestication of the Canadian Judgment in Arizona. Accordingly, the Court finds that the Arizona Judgment is entitled to full faith and credit in Delaware pursuant to the UEFJA.

Enforcement is not precluded on the basis that Delaware has adopted the UFCMJRA and Arizona has not.[71] In *Playtex*, the Delaware Supreme Court enforced a Kansas judgment even though the judgment conflicted with Delaware laws and policy. Thus, even though Arizona has not adopted the UFCMJRA, the sister-state judgment is entitled to full faith and credit.

Additionally, judgments recognized as valid after a full hearing in a sister-state are *res judicata*.[72] Ryckman had a full and fair opportunity to present his case challenging domestication in Arizona. There, Ryckman presented various pleadings and argument before the Arizona Superior Court. Subsequently, Ryckman presented argument before the Arizona Court of Appeals challenging domestication. The Arizona Court of Appeals rejected Ryckman's position, and affirmed the Arizona Superior Court's domestication of the Canadian Judgment. Therefore, the Arizona Judgment should be given full faith and credit based on *res judicata*.

The instant case is distinguishable from *Ahmad*. In *Ahmad*, *res judicata* and the full faith and credit principles did not prevent the District of Columbia Court of Appeals from reviewing the judgment on the merits. The New York Supreme Court did not have personal jurisdiction over the judgment debtor.[73] In this case,

[71] *See Playtex*, 584 A.2d at 1215–19.
[72] *See Standard Chartered*, 9 A.3d at 945.
[73] *Ahmad*, 98 A.3d at 1005–06.

the Arizona courts had personal jurisdiction over Ryckman because Ryckman resided in Arizona.

Ryckman argues the ASC is attempting to "back door" the Canadian Judgment into Delaware by unlawfully circumventing the UFCMJRA. However, the facts of this case compel a contrary conclusion. Ryckman voluntarily moved his residence from Canada to Arizona. Thus, Arizona was a forum chosen by Ryckman—not the ASC. Therefore, there is no evidence that the ASC engaged in any improper forum-shopping.

Further, the instant case is distinguishable from *Bates*. The *Bates* court declined to give full faith and credit to a foreign-country judgment based on *Tanner*. *Tanner* involved the Kansas Court of Appeal's refusal to enforce a Missouri judgment. *Tanner* did not involve a foreign-country judgment. The *Tanner* Court refused enforcement of the Missouri judgment because it appeared the purpose of filing in multiple states was to avoid a motion for relief pending the original lawsuit.[74]

The ASC simply seeks to collect on a judgment through assets allegedly held by Ryckman in a Delaware corporation. There is no evidence that the ASC's enforcement is motivated by an improper purpose. The situs of a corporation's

[74] *Tanner*, 619 P.2d at 1181.

stock is the place of incorporation.[75] Delaware is interested in disputes regarding stockholders of a Delaware corporation when the ownership of stock is at issue in the litigation.[76] Studio One is a Delaware corporation. The ASC seeks to determine the amount of assets or shares held by Ryckman in Studio One, in order to execute the Arizona Judgment. Therefore, Delaware has an interest in the instant dispute.

Granting full faith and credit to the Arizona Judgment is consistent with important public policy considerations. First, enforcing the Arizona Judgment promotes the national interest in giving full faith and credit to sister-state judgments. This national interest outweighs Delaware's interest in enforcing foreign-country judgments under the UFCMJRA. Second, applying full faith and credit to the Arizona Judgment avoids the necessity of looking behind an otherwise valid judgment. Such an examination of a valid judgment would involve potentially needless, expensive, and time-consuming litigation. Further, such a process would disturb Delaware's clear precedent to respect sister-state judgments without relitigating the case on the merits. Once a creditor domesticates a foreign-

[75] 8 *Del. C.* § 169.

[76] *See Hart Holding Co. v. Drexel Burnham Lambert Inc.*, 593 A.2d 535, 543 (Del. Ch. 1991) ("Where the action is one to determine the validity or ownership of stock, or the existence of rights to exercise power with respect to stock (*e.g.*, voting), the ownership of stock in a Delaware corporation alone would arguably qualify as a 'contact' with this jurisdiction that would count in assessing amenability to suit here.").

country judgment, the Court finds that the UEFJA permits the creditor to seek enforcement in a sister state.

Therefore, the Court finds that full faith and credit applies. The Arizona Judgment should be domesticated and enforced pursuant to Delaware law, as codified by the UEFJA.

Motion to Compel & Motion to Quash

Parties' Contentions

The ASC served a subpoena *duces tecum* on Studio One to: (1) produce a corporate designee pursuant to Superior Court Civil Rule 30(b)(6); and (2) produce certain documents for the deposition pursuant to Rules 30(b)(6) and 45. The ASC argues that the subpoena is reasonable in scope and not burdensome. The subpoena requests any information or documents that Studio One possesses regarding Ryckman. Specifically, the ASC requests information regarding certain alleged stock that Ryckman holds in Studio One.

Studio One argues the subpoena is unduly burdensome because, even though Studio One is a Delaware corporation, it does not have any other contacts with Delaware. Further, Studio One contends that the subpoena is unduly burdensome because: (1) it seeks information already in possession of the ASC; (2) Delaware has little or no connection to this matter; and (3) the ASC should obtain the subpoenaed information from Ryckman. Studio One also argues the subpoena's

scope and subject matter is inappropriate. They argue the ASC is seeking confidential shareholder information including bank accounts, brokerage accounts, and tax returns. Studio One asserts any deposition that is required under Rule 30(b)(6) must be conducted at Studio One's principal place of business in Arizona.

Applicable Discovery Rules

In evaluating a motion to compel discovery, the relevance standard is whether the discovery sought is reasonably calculated to lead to admissible, non-privileged evidence.[77] "The scope of permissible discovery is broad, therefore objections to discovery requests, in general, will not be allowed unless there have been clear abuses of the process which would result in great and needless expense and time consumption. The burden is on the objecting party to show why the requested information is improperly requested."[78]

Rule 30(b)(6) provides a discovery tool for a party to notice the deposition of a corporation by describing with reasonable particularity the matters on which examination is requested. The corporation then shall designate a representative to testify on its behalf. While the general rule is that a corporation's agent is deposed at the corporation's principal place of business, the rule is not strictly applied and it

[77] Super. Ct. Civ. R. 26(b)(1).
[78] *Prod. Res. Grp., L.L.C. v. NCT Grp., Inc.*, 863 A.2d 772, 802 (Del. Ch. 2004) (internal quotations omitted).

is within the Court's discretion to tailor discovery matters on a case-by-case basis.[79]

Rule 45 provides a discovery tool for a party to request documents from a non-party. Rule 45(c)(1) requires that "[a] party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena." Rule 45(c)(2)(B) permits a party to move the Court to compel the production of documents from a non-party. Rule 45(c)(3)(A) permits a party to move the Court to "quash or modify the subpoena if it (i) fails to allow reasonable time for compliance, (ii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or (iii) subjects a person to undue burden."

Rule 69(aa) permits a judgment creditor, in aid of execution of a judgment, to "take discovery by deposition, interrogatories and requests for production, in the manner provided in these Rules." Rule 69(aa) permits a party to discover information relating to the existence and location of assets that rightfully may be seized to satisfy a creditor's judgment.[80] Discoverable assets under this Rule may include assets which are not in the hands of the judgment debtor.[81]

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[79] *See Braunsteins v. Mart Ass'n*, 1987 WL 28308, at *2 (Del. Super.).
[80] *Gillen v. 397 Props., L.L.C.*, 2002 WL 259953, at *2 (Del. Ch.). *See also Tekstrom, Inc. v. Salva*, 2007 WL 3231632, at *1–2 (Del. Com. Pl.) ("The use of Civil Rule 69 provides for a means of relative ease by which a judgment creditor can find out the existence of the assets of the debtor.").
[81] *Id.*

Discovery in aid of execution of a judgment is broad.[82] In *Tekstrom, Inc. v. Salva*,[83] the Delaware Court of Common Pleas permitted the defendant to invoke that Court's Rule 69(aa) to obtain financial information and tax returns from a bank—not a party to the action—pertaining to the assets of a judgment debtor.[84] The Court found the subpoena *duces tecum*, which requested from the bank "all financial statements and records" pertaining to the judgment debtor, was reasonably calculated to lead to admissible evidence, and not unreasonable or oppressive.[85]

Court's Findings

The subpoena seeks the details of Ryckman's stock holdings because Ryckman's deposition in a related case, and Studio One's Answer to the garnishment in this case, provide different numbers. Ryckman previously testified that he did not hold any stock in Studio One. Studio One's Form 10-K indicated that Ryckman beneficially owns 5,883,904 shares of stock in Studio One.[86] Studio One stated in its garnishment answers that Ryckman holds only 4,000 shares. The Court finds that Studio One must respond to the subpoena pursuant to Rule 26(b)(1). The ASC is entitled to know what Ryckman-controlled companies own the other 5,879,904 shares of Studio One common stock that are listed under

[82] *See Tekstrom*, 2007 WL 3231632, at *2.
[83] 2007 WL 3231632 (Del. Com. Pl.).
[84] *Id.* at *3–4.
[85] *Id.* at *3–5.
[86] The value of the shares is estimated to be $3.6 million.

Ryckman's name. Studio One must produce any requested non-privileged documents in its possession and must state which, if any, documents are not in its possession.

Moreover, even if the ASC already possesses documents requested, such as the public filings, Studio One is not protected from producing the documents in response to a request for production, unless it is unreasonably burdensome, cumulative, or duplicative.[87] The Court finds that the document requests are not unreasonably burdensome, cumulative, or duplicative.

For attachment and garnishment purposes, the situs of ownership in a Delaware corporation is Delaware.[88] Shares in a Delaware corporation may be attached for debt or other demands.[89] Thus, any shares that Ryckman owns in Studio One—a Delaware corporation—are owned in Delaware. Therefore, the Court finds Delaware is sufficiently interested in the litigation to enforce the subpoena.

Discovery in aid of execution of a judgment is broad.[90] A judgment creditor may discover a debtor's assets and tax returns through a party other than the judgment debtor.[91] To the extent that the ASC is seeking privileged information, Studio One has discovery tools, such as a privilege log, at its disposal. Therefore,

[87] Super. Ct. Civ. R. 26(b)(1).
[88] 8 *Del. C.* § 169.
[89] 8 *Del. C.* § 324.
[90] *Gillen*, 2002 WL 259953, at *2. *See also Tekstrom*, 2007 WL 3231632, at *1–2.
[91] *Tekstrom*, 2007 WL 3231632, at *3–4.

the Court finds the discovery sought pursuant to Rule 45 is not unduly burdensome.

The final issue is the location of any necessary deposition. Studio One has its principal place of business in Arizona. Generally, a 30(b)(6) witness is deposed at the corporation's principal place of business. However, that rule is not strictly applied. Deposition locations are reviewed on a case-by-case basis. The ASC has indicated in its Answering Brief that it would be amenable to deposing the witness in Arizona if: (1) Studio One provides the requested documents one week prior to the deposition; and (2) any disputes that arise during the deposition will be addressed to this Court. The Court finds that the deposition may take place in the location most convenient to the parties and the witness.

CONCLUSION

In this case of first impression in Delaware, the Court finds that full faith and credit applies. The Arizona Judgment shall be domesticated and enforced pursuant to Delaware law, as codified by the UEFJA. The Court further rules that the ASC's discovery requests in aid of execution of a judgment are reasonably calculated to lead to the discovery of admissible, non-privileged evidence. Neither Ryckman nor Studio One have demonstrated that producing the requested information would be unduly burdensome or that the requests are the product of an abuse of process.

THEREFORE, Judgment Debtor's Motion to Vacate is hereby **DENIED**;

Judgment Creditor's Motion to Compel is hereby **GRANTED**;

Garnishee Studio One Media, Inc.'s Motion to Quash is hereby **DENIED**.

IT IS SO ORDERED.

_/s/ *Mary M. Johnston*_____
The Honorable Mary M. Johnston