

ENFORCEMENT OF FOREIGN JUDGMENTS

Houston Putnam Lowry, Esq.
Polivy, Taschner, Lowry & Clayton
Hartford, Connecticut

- I. Uniform Enforcement of Foreign Judgments Act: originally drafted by the National Conference of Commissioners on Uniform State Laws.
Codified at Connecticut General Statutes §52-604, *et seq.*
 - A. Foreign judgments mean only judgments entitled to full faith and credit under the United States Constitution. This does not cover judgments from foreign countries, only sister states within the United States.¹
 - B. Connecticut modified the Uniform Act to exclude:²
 1. Default appearance judgments. If the defendant failed to appear, the judgment may not be enforced using this summary procedure.
 2. *Cognovit* judgments (judgments by confession)
 - C. To enforce the judgment you need (there is no fee to file the certification):
 1. A certified copy of the judgment.
 2. Certification the judgment was not obtained by a default in appearance.

¹ Connecticut General Statutes §52-604. Definition of foreign judgment.

As used in sections 52-604 to 52-609, inclusive, "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, except one obtained by default in appearance or by confession of judgment.

² Connecticut General Statutes §52-604. Definition of foreign judgment.

As used in sections 52-604 to 52-609, inclusive, "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, *except one obtained by default in appearance or by confession of judgment.*

POLIVY, TASCHNER, LOWRY & CLAYTON

A tradename of Polivy & Taschner, LLC

Business Lawyers, Six Central Row, Hartford, Connecticut 06103 ● +1 (860) 560-1180 ● Fax: +1 (860) 560-1354
www.PolivyTaschner.com

3. Certification the judgment was not obtained by confession.
4. Certification the judgment remains unsatisfied.
5. Certification of the amount remaining unpaid.
6. Certification that enforcement has not been stayed.
7. Name and address of the judgment debtor.

All of this information must be filed in the Superior Court. The statute is silent about who must make the certification (see attached form I have used).

A certification cannot be filed in federal court, *Edna Caruso, P.A. v. Perlow*, 440 F.Supp.2d 117 (2006). The matter must proceed by complaint or an AO-451.

- D. The debtor must be given notice within thirty days of the filing, Connecticut General Statutes §52-605. This means its debtor may find out about the filing after the fact and after an execution has issued.
 1. As a matter of practice, some Superior Court clerk's offices will not issue an execution until proof of notice has been filed with the court. This is contrary to the statute's wording.
- E. A judgment filed under this statute is treated as if it was a Connecticut judgment, Connecticut General Statutes §52-605(b). Therefore, it is enforced in the same manner as a Connecticut judgment.
- F. A foreign judgment may be attacked by a writ of *audita querela*, see Connecticut General Statutes §52-605(b) and §52-606(b).
- G. While an execution may issue *ex parte*, no execution proceeds may be distributed until 30 days after the judgment debtor is notified. The debtor may decide to take an appeal (although an appeal must be taken within 20 days under Connecticut law).
- H. No foreign judgment may be enforced if the debtor can show:

1. an appeal is pending;
 2. an appeal will be taken; or
 3. a stay of execution was granted.
- I. Does not apply to a judgment to the extent it grants equitable relief.
- II. A judgment creditor may always sue on the foreign judgment under common law.
- A. The Uniform Enforcement of Foreign Judgments Act does not extinguish this cause of action.³ It should be noted Connecticut practice does not have a concept of summary judgment in lieu of complaint (contrary to New York procedure).
 - B. This route is slower because a trial may be necessary unless you can prevail with a motion for summary judgment. All the usual rules of pleadings and discovery apply.
 - C. The complaint for this type of action is very simple, Practice Book Annotated, Forms 2d, Kaye and Effron, Form 304.40.
 - D. There is a 25 year statute of limitations for suing on Connecticut judgments.⁴
 1. A motion to revive may be filed without fee before the judgment is 20 years old, which extends the judgment.

³ Connecticut General Statutes §52-607. Other rights of action preserved.

The right of a judgment creditor to proceed by an action on the judgment or a motion for summary judgment in lieu of complaint instead of proceeding under sections 52-604 to 52-609, inclusive, remains unimpaired.

⁴ Connecticut General Statutes §52-598(a). No execution to enforce a judgment for money damages rendered in any court of this state may be issued after the expiration of twenty years from the date the judgment was entered and no action based upon such a judgment may be instituted after the expiration of twenty-five years from the date the judgment was entered.

E. There is a 15-year statute of limitations for suing on a Connecticut small claims judgment.⁵

1. A motion to revive may be filed without fee before the small claims judgment is 10 years old, which extends the judgment.

III. Recognition of United States District Judgments.

A. This is codified at 28 U.S.C. §1963.⁶

B. The procedure is rather simple and streamlined. There is a standard form (AO-451) the "sending" court fills out.

C. The filing fee is \$47.00, as of February 1, 2018.

D. All that needs to be filed is:

1. Certified judgment.
2. Standard form AO-451 (available on line in Adobe format at www.uscourts.gov/file/458/download)
3. The filing fee.

⁵ Connecticut General Statutes §52-598(b). No execution to enforce a judgment for money damages rendered in a small claims session may be issued after the expiration of ten years from the date the judgment was entered, and no action based upon any such judgment may be instituted after the expiration of fifteen years from the date the judgment was entered.

⁶ 28 U.S.C. §1963. Registration of judgments for enforcement in other districts.

A judgment in an action for the recovery of money or property entered in any court of appeals, district court, bankruptcy court, or in the Court of International Trade may be registered by filing a certified copy of the judgment in any other district or, with respect to the Court of International Trade, in any judicial district, when the judgment has become final by appeal or expiration of the time for appeal or when ordered by the court that entered the judgment for good cause shown. Such a judgment entered in favor of the United States may be so registered any time after judgment is entered. A judgment so registered shall have the same effect as a judgment of the district court of the district where registered and may be enforced in like manner.

A certified copy of the satisfaction of any judgment in whole or in part may be registered in like manner in any district in which the judgment is a lien.

The procedure prescribed under this section is in addition to other procedures provided by law for the enforcement of judgments.

E. Does not apply to a judgment to the extent it grants equitable relief.

IV. Uniform Foreign Money-Judgments Recognition Act, Connecticut General Statutes §50a-30, *et seq.* This act was also drafted by the National Conference of Commissioners on Uniform State Laws.

A. This act applies only to judgments from foreign countries.⁷ However, the procedure followed is the one that applies to sister state judgments.

B. This act does not cover even monetary judgments arising from:⁸

1. Taxes
2. Fines
3. support orders in family matters (this is handled separately)

C. The foreign judgment must be final, conclusive and enforceable where rendered.⁹

D. The general rule is the foreign judgment must be recognized.¹⁰

⁷ Connecticut General Statutes §50a-31. Definitions

As used in sections 50a-30 to 50a-38, inclusive:

(1) "Foreign state" means any governmental unit other than the United States or any state, district, commonwealth, territory or insular possession thereof.

(2) "Foreign judgment" means any judgment of a foreign state granting or denying recovery of a sum of money, other than a judgment for taxes, a fine or other penalty or a judgment for support in matrimonial or family matters.

⁸ See Connecticut General Statutes §§ 50a-31(2) "Foreign judgment" means any judgment of a foreign state granting or denying recovery of a sum of money, *other than a judgment for taxes, a fine or other penalty or a judgment for support in matrimonial or family matters.*

⁹ Connecticut General Statutes §50a-32. Applicability.

Sections 50a-30 to 50a-38, inclusive, apply to any foreign judgment that is final and conclusive and enforceable where rendered.

¹⁰ Connecticut General Statutes §50a-33. Recognition and enforcement.

Except as provided in section 50a-34, a foreign judgment meeting the requirements of section 50a-32 is conclusive between the parties to the extent that it grants or denies recovery of a sum of money. The foreign judgment is enforceable in the same manner as the judgment of a sister state which is entitled to full faith and credit.

- E. A foreign judgment is NOT conclusive (and shall not be enforced) if:¹¹
1. The foreign country did not provide impartial tribunals.
 2. The foreign country's procedures are not compatible with due process of law.
 3. The foreign court did not have personal jurisdiction over the debtor.
 4. The foreign court did not have jurisdiction over the subject matter.
- F. The foreign judgment need not (but might be) recognized if:¹²
1. The debtor did not get notice in sufficient time to defend.
 2. Judgment was obtained by fraud.
 3. The underlying cause of action is repugnant to Connecticut's public policy.
 4. There is a conflict with another final and conclusive judgment.

¹¹ Connecticut General Statutes §50a-34(a) A foreign judgment is not conclusive if:
(1) The judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law;
(2) The foreign court did not have personal jurisdiction over the judgment debtor; or
(3) The foreign court did not have jurisdiction over the subject matter.

¹² Connecticut General Statutes §50a-34(b) A foreign judgment need not be recognized if:
(1) The judgment debtor in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him to defend;
(2) The judgment was obtained by fraud;
(3) The cause of action on which the judgment is based is repugnant to the public policy of this state;
(4) The judgment conflicts with another final and conclusive judgment;
(5) The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court; or
(6) In the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action.

5. The foreign court proceedings violated a contractual choice of forum clause.
 6. The foreign court proceedings violated an arbitration clause.
 7. The foreign court was seriously inconvenient for the trial when jurisdiction is based solely on personal service.
- G. The court must find there was personal jurisdiction if:¹³
1. The debtor was personally served in the foreign country.
 2. The debtor personally appeared (except for a limited appearance).
 3. Prior to the action being commenced, the debtor consented to jurisdiction.
 4. The debtor was domiciled in the foreign country when the proceedings were commenced.
 5. The debtor had its principal place of business in the foreign country.
 6. The debtor was incorporated in the foreign country.

¹³ Connecticut General Statutes §50a-35 (a) The foreign judgment shall not be refused recognition for lack of personal jurisdiction if:

- (1) The judgment debtor was served personally in the foreign state;
- (2) The judgment debtor voluntarily appeared in the proceedings, other than for the purpose of protecting property seized or threatened with seizure in the proceedings or of contesting the jurisdiction of the court over him;
- (3) The judgment debtor prior to the commencement of the proceedings had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved;
- (4) The judgment debtor was domiciled in the foreign state when the proceedings were instituted, or, being a body corporate had its principal place of business, was incorporated or had otherwise acquired corporate status, in the foreign state;
- (5) The judgment debtor maintained a business office in the foreign state and the proceedings in the foreign court involved a cause of action arising out of business done by the judgment debtor through that office in the foreign state; or
- (6) The judgment debtor operated a motor vehicle or airplane in the foreign state and the proceedings involved a cause of action arising out of such operation.

7. The debtor had a place of business in the foreign country and the cause of action arose out of doing business in that foreign country.
 8. The debtor operated a motor vehicle and the cause of action arose out of operating the motor vehicle.
 9. The debtor operated an airplane in the foreign country and the cause of action arose out of operating the airplane.
- H. The court must stay the judgment if:¹⁴
1. An appeal is pending (security using the standards from the foreign forum will be required, which can be a dramatic change under Connecticut law).
 2. An appeal will be taken (security using the standards from the foreign forum will be required).
 3. a stay of execution was granted (security using the standards from the foreign forum will be required).
 4. It may be attacked by a writ of *audita querela* (Connecticut standards for security and a stay will be used...which differs between state and federal law).
- I. The certified judgment should have a Hague Apostille or equivalent (1961 Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents).

¹⁴ Connecticut General Statutes §50a-36. Stay of enforcement.

(a) If the judgment debtor shows the court that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the state in which it was rendered.

(b) If the judgment debtor shows the court any ground upon which enforcement of a judgment of a court of this state would be stayed, the court shall stay enforcement of the judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment as is required in this state.

V. Foreign Money Claims Act, Connecticut General Statutes §50a-50, *et seq.*

- A. Connecticut Courts are now authorized to issue judgments in a foreign currency, although costs will always be in United States dollars.¹⁵
- B. The exchange risk is shifted onto the debtor by doing the conversion the day before the Marshal gets the proceeds or the debtor pays.¹⁶ This is important if the foreign currency is volatile.

VI. Special Cases.

- A. Certain international awards are enforceable as if they are final Connecticut Judgments for which the appeal time has passed.¹⁷
- B. Equitable remedies are enforceable to the same extent a similar Connecticut judgment would be enforceable.¹⁸

¹⁵ Connecticut General Statutes §50a-57(a)-(c). Judgments on foreign-money claims. Form.

(a) Except as provided in subsection (c), in a successful foreign-money claim, a judgment or arbitration award shall be stated in an amount of the money of the claim.

(b) The judgment is payable in that foreign money or, at the option of the judgment debtor, in the amount of United States dollars which will purchase that foreign money on the conversion date.

(c) Assessed costs shall be entered in United States dollars.

¹⁶ Connecticut General Statutes §50a-51(2). Definitions.

As used in this chapter:

(2) "Conversion date" means, except as provided in section 50a-58, the banking day next before the date on which money or an award is, in accordance with this chapter; (i) paid to a judgment creditor, (ii) paid to the designated official enforcing a judgment on behalf of the judgment creditor or (iii) used to effect a set-off of claims in different moneys in an action;

¹⁷ Connecticut General Statutes §50a-140. Enforcement of interim and international awards.

(a) For the purposes of this section:

(1) "International award" means any final award issued by: (A) An arbitral tribunal of the Permanent Court of Arbitration; or (B) an arbitral tribunal of the International Center for the Settlement of Investment Disputes.

(2) "Interim award" means any order of interim measures issued by: (A) An arbitral tribunal of the Permanent Court of Arbitration; or (B) an arbitral tribunal of the International Center for the Settlement of Investment Disputes.

¹⁸ Connecticut General Statutes §50a-140(b) Any international award shall be enforceable as if such international award was a final and binding judgment issued by the Superior Court of this state and any

- C. Interim awards are enforceable to the same extent a similar Connecticut Superior Court order would be enforceable.¹⁹
- D. All you need to do is file a certified copy of the award with the Connecticut Superior Court.²⁰
- E. There is no equivalent in federal court.

applicable appeal time has expired. An execution may immediately issue on an international award upon filing with the Superior Court.

¹⁹ Connecticut General Statutes §50a-140(c) Any interim award shall be enforceable to the same extent and in the same manner as a similar order of the Superior Court for which any applicable appeal time has expired.

²⁰ Connecticut General Statutes §50a-140(d) Upon receipt of a copy of any interim or international award certified by the appropriate authority, the Superior Court shall issue all necessary orders to enforce any interim award in accordance with chapter 903a and any international award in accordance with chapter 906. Such orders shall be immediately appealable in the same manner as orders in aid of execution of a judgment issued by the Superior Court.

SAMPLE FORM

NO. : SUPERIOR COURT
: JD OF HARTFORD
VS. : AT HARTFORD
: DATE

CERTIFICATION

On **[date]**, the Plaintiff in the above-captioned action obtained a **[state]** Judgment against the Defendant in the amount of \$[amount]. Pursuant to Connecticut General Statutes §52-605, the Plaintiff hereby requests the Court to treat this foreign Judgment in the same manner as a Connecticut Judgment, in accordance with the following:

1. Judgment was not obtained by default in appearance or by confession of Judgment;
 2. Said Judgment is entirely unsatisfied;
 3. The total amount of **[amount]** remains unpaid. This amount includes post-judgment interest through **[today]** at 10%;
 4. The enforcement of said Judgment has not been stayed;
- and

5. Defendant [**defendant**]'s last known address is
[**address**], Connecticut.

PLAINTIFF

By: _____
[attorney], Esq. for
Polivy, Taschner, Lowry & Clayton
Six Central Row-Second Floor
P.O. Box 23-0294
Hartford, CT 06123-0294
(860) 560-1180
FAX: (860) 560-1354
Juris # 100074
____ Attorneys

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was mailed on
this ____ day of _____, 20____ to:

Houston Putnam Lowry