A LAWYER'S HANDBOOK FOR ENFORCING FOREIGN JUDGMENTS IN THE UNITED STATES AND ABROAD

This book assists the practitioner seeking to enforce a foreign judgment in the United States or a U.S.-rendered judgment abroad in navigating the lack of procedural uniformity that exists and in planning strategies likely to ensure effective enforcement. As a handbook, it provides the practitioner with a framework and resources with which to approach and further research the laws of the relevant state or country. In Part One, the guide takes the practitioner chronologically through the process of obtaining a U.S. court's recognition and enforcement of judgments rendered abroad. Part Two takes the practitioner through the process of obtaining an overseas jurisdiction's recognition and enforcement of judgments rendered in the United States. Part Three assesses the current trends in the United States and in the international trade environment regarding enforcement of judgments.

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A Lawyer’s Handbook for Enforcing Foreign Judgments in the United States and Abroad

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Contents

Preface ix
Acknowledgments and Dedication xi
Introduction 1

PART ONE. ENFORCING FOREIGN COUNTRY JUDGMENTS IN THE UNITED STATES

I. Overview 5
II. Phase One: Before Recognition 9

A. Choosing a Jurisdiction/Locating Assets 9
  1. Jurisdiction and Venue 9
  2. Choice of Forum: Federal or State Court 9
     a. Generally 9
     b. Federal or State Court? 10
     c. Burden of Proof 10
     d. Defenses 10
  3. Choice of Venue: Defenses 11
  4. Preemption 11

B. Evidentiary Requirements: Copy of the Judgment 11
   1. Authentication 11
      a. Simplified Authentication 11
      b. Procedure 12
         1) Obtaining Authentication 12
         2) Seal 12
         3) Translations 12
         4) Proof of Service 12

III. Phase Two: Converting the Judgment 14

A. Conversion Methods Under the Recognition Act 14
vi

2. Conversion by Common Law Action
3. Conversion by Registration
   a. The California and New York Exceptions
B. The Complaint
C. Selected Key Provisions of the Recognition Act
   1. Conclusiveness Requirement
      a. Plaintiff
      b. Defendant
      c. Mandatory Non-Recognition
      d. Permissive Non-Recognition
   2. Permissive Non-Recognition: Defenses and Strategies
      a. Sufficient Notice
      b. Service Under the Hague Convention
      c. Lack of Personal Jurisdiction
      d. Inconvenient Forum
   3. Default Judgments and Foreign Long-Arm Statutes
      a. Default Judgments
      b. Foreign Long-Arm or Exorbitant Jurisdiction Statutes
   4. Non-Judicial Dispute Resolution Clauses
5. Public Policy
   a. Generally
   b. Combination with Other Defenses
   c. Corrupt Judicial System
6. Parallel Proceedings
   a. Res Judicata/Collateral Estoppel
   b. Rules and Proposed Strategies
   c. American Bar Association Proposal
7. Extrinsic and Intrinsic Fraud
8. Reciprocity
D. Other Conversion Methods
   1. Common Law Recognition
   2. Other Recognition Statutes
   3. New Complaint
   4. Action for Conversion in Other Jurisdictions: Strategy
E. Currency of Damages
   1. Generally
   2. “Breach Day” and “Judgment Day” Rules
   3. Uniform Foreign-Money Claims Act
      a. Pleadings
      b. Defenses
IV. Phase Three: Executing a Converted Judgment in U.S. Courts
   A. Plaintiff: Locating and Freezing Assets
   B. Collecting the Judgment
viii Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>d. Supplemental Treaties</td>
<td>435</td>
</tr>
<tr>
<td>e. Treatises vis-à-vis U.S. Judgments</td>
<td>435</td>
</tr>
<tr>
<td>5. East Asian Approach (Japan, Korea, and Taiwan)</td>
<td>435</td>
</tr>
<tr>
<td>a. Uniform Statutes</td>
<td>435</td>
</tr>
<tr>
<td>V. Conclusion</td>
<td>436</td>
</tr>
<tr>
<td>Bibliography</td>
<td>438</td>
</tr>
<tr>
<td>Instruments, Laws, and Other Materials</td>
<td>479</td>
</tr>
</tbody>
</table>

PART THREE. THE FUTURE OF ENFORCING FOREIGN JUDGMENTS

I. Introduction                                                     | 565  |

II. Hague Convention on Exclusive Choice of Court Agreements       | 567  |
A. Moving Toward a Convention on Jurisdiction and Judgment Enforcement | 567  |
   1. The U.S.-U.K. Convention Draft                                | 567  |
   2. The Hague Convention                                         | 567  |
B. The 1999 Draft Convention on Jurisdiction and Judgments         | 569  |
C. The 2001 Draft Convention                                      | 570  |
D. Downscaling the Scope of the Jurisdiction and Judgments Convention | 571  |
E. Current Status: Main Provisions and Major Issues of the 2005 Final Convention | 572  |
   1. Main Obligations and Exceptions of the 2005 Final Convention | 572  |
   2. Problems and Issues That Emerged from the Draft Convention   | 574  |

III. International Jurisdiction and Judgments Project of the American Law Institute | 576  |
A. Introduction                                                     | 576  |
B. General Provisions of the American Law Institute Project         | 577  |
C. The Mandatory and Permissive Bases of Non-Recognition and the Black List of Jurisdictional Bases | 577  |
D. Major Issues and Problem Areas in the International Jurisdiction and Judgments Project | 578  |

IV. Revision of the Uniform Foreign-Money Judgment Recognition and Enforcement Act | 581  |
A. The Uniform Act Experience                                       | 581  |
B. Proposed Revisions                                                | 582  |

V. International Trade Flexibility and Enforcing Foreign Judgments | 584  |

VI. Conclusion                                                      | 585  |
Bibliography                                                         | 586  |

Index                                                               | 619  |
Preface

This Handbook has its genesis in two bibliographies I published in 1993 in The International Lawyer on the subject of enforcement of foreign judgments.¹ Those bibliographies were apparently useful to many, so since their publication I have received numerous inquiries from practicing lawyers about the “how to” aspects of enforcing foreign judgments here in the United States and taking U.S.-rendered judgments and having them enforced abroad. Given this interest – and, from my own experience, given that there are quite practical and tactical considerations involved – I decided to put together this Handbook.

Because of the press of other demands, this guide at first was just a pile of notes in a folder. Eventually, I developed the notes into a short draft, and then that draft sat gathering dust for almost a decade. Increased opportunities to consult with practitioners about enforcement issues and the added motivation of a publication contract enabled me to revisit and complete the project recently. In doing so, I tried to include the kind of legal and practical guidance that a lawyer initially confronting the prospect of enforcing a foreign judgment would need and find useful. Thus, the guide contains not only “how to” text but also bibliographies that are updated and enlarged from the ones published in 1993, useful forms, and copies of some of the legal instruments (and Web site citations to others).

As Part Three of this Handbook demonstrates, the law governing the enforcement of foreign judgments is in flux both in the United States and abroad. While this book attempts to guide practitioners through some of the basic and difficult aspects of inbound and outbound judgment enforcement, the law in this area is experiencing new attention as the globalization of business accelerates. Thus, it is most likely that a book written five years from now will include new issues to which practitioners should be alerted. I am confident,

however, that what is presented here will continue to describe the basic framework and considerations involved in enforcing foreign judgments.

I hope the user will find this volume helpful and will keep it near his or her desk for frequent consultation.

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I am grateful for the assistance provided by Southwestern University School of Law, which has generously supported this project in its various iterations over the last decade. In addition to a summer stipend partially supporting the book’s development, it provided research assistance. In that regard, I have been pleased to have many students assist with the development of the bibliographies. At the risk of omitting someone, I express my appreciation for the research assistance with the bibliographies to the following present and former students: Debra Belanger, Patrick Benedek, Bill Danziger, C. B. Everitt, Hamed Ghaemmaghami, Ava Sadripour, Fabienne Struell, Mark Tackitt, and Russell Trice. Several students also contributed significantly to researching substantive portions of the text. I gratefully acknowledge the research, drafting, and editing assistance of Fredrick M. Ray and Anna von Franque.

David McFadden, Southwestern’s Senior Reference Librarian, has always cheerfully and ably handled all research tasks asked of him – whether simple or complex – and has contributed significantly to the accuracy of the citations of the sources herein. I thank him for his help. A special expression of appreciation is also due John Berger, Senior Editor at Cambridge University Press and a long-time friend, who encouraged me early on to write a book on the subject of enforcement of foreign judgments and patiently awaited its production over the course of a decade.

Also, I have greatly appreciated the interest in my inquiries about foreign judgment issues shown and the advice offered by the many practitioners with whom I have come into contact over the years. They have contributed greatly to my understanding of the practical and strategic aspects of this subject, whether through educational programs sponsored by the bar or via various consulting assignments in which I have been engaged.

Of course, in all respects, I am responsible for the accuracy of what follows.

Finally, I dedicate this work to my wonderful wife, Colleen, who has encouraged me throughout and without whose love and support I would not have been able to write this book.