

DOMESTIC BLISS

HOW TO DOMESTICATE FOREIGN JUDGMENTS IN ALABAMA

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Judgments recovered in courts outside of Alabama but then brought into this state are referred to as "foreign" judgments. The process for obtaining recognition and enforcement of foreign judgments is commonly known as domestication. These materials will explain how to domesticate the kind of foreign judgments that you will typically encounter in your law practice.¹ Part one of the materials describes the process for obtaining recognition of foreign judgments in Alabama and part two describes the process for perfecting and enforcing the judgments by recording copies in Alabama's real estate records.

I. Domestication - Over The Threshold

The first step in domesticating a foreign judgment is to file a copy of it with the appropriate Alabama court. Different procedures apply depending upon whether you are domesticating a federal court foreign judgment or a state court foreign judgment.

A. Domestication of Foreign Judgment Entered by Federal Court

Domesticating a federal court foreign judgment in Alabama is simple. The procedure is referred to as registration and it is governed by 28 U.S.C. § 1963, which provides that:

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.

¹ Only judgments obtained in the United States will be discussed; the procedure for domestication of judgments obtained in other countries will not be described in these materials.

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

28 U.S.C. § 1963.² Under the statute, a judgment recovered in any federal district court outside of Alabama may be registered here by obtaining a certified copy of the foreign judgment and filing it in any federal district court located in Alabama.

Make sure that the document you file to register the foreign federal judgment is a **certified copy** of the judgment. This is normally done by asking the clerk of the originating court (the court that entered the underlying judgment) to issue to you a form titled *Clerk's Certification of a Judgment to be Registered in Another District* ("Certification Form").³

Once you file the Certification Form (the clerk will attach a copy of the actual foreign judgment to the form) with any Alabama federal district court, the judgment has the same effect as if it had been entered by that court in the first instance.⁴

B. Domestication of Foreign Judgment Entered by State Court

Domesticating a state court foreign judgment in Alabama is simple too but only if you employ the right procedure. Two different procedures are available: the first method (**which is the one you will want to use**) is under the Alabama Uniform Enforcement of Foreign Judgments Act (the "Uniform Act"); the second method is under Alabama's common law. Both methods are discussed separately below.

² A copy of 28 U.S.C. § 1963 is attached hereto as **Exhibit "A."**

³ A copy of the Certification Form is attached hereto as **Exhibit "B."**

⁴ Alternatively, you can domesticate a federal court foreign judgment in Alabama under the Uniform Act (discussed in detail below) but the author is not aware of any reason why you would want to do that. It is much easier to simply register the federal court foreign judgment with an Alabama federal district court pursuant to 28 U.S.C. § 1963.

1. Uniform Act Method

In order to domesticate a state court foreign judgment using the Uniform Act method, you must file (1) an **authenticated** copy of the foreign judgment and (2) an affidavit setting forth the name and last known post office address of the judgment debtor, the last known post office address of the judgment creditor, and a statement that the foreign judgment is valid, enforceable, and unsatisfied. The authentication requirement is described in Ala. Code § 6-9-232, which provides that:

A copy of any foreign judgment authenticated in accordance with an act of Congress or the statutes of this state may be filed in the office of the clerk of any circuit court of this state. A clerk of any circuit court shall note the filing in a special docket set up for foreign judgments. A judgment so filed has the same effect and is subject to the same procedures, defenses and proceedings for reopening, vacating, or staying as a judgment of a circuit court of this state and may be enforced or satisfied in like manner; provided, however, that any proceeding that is brought to enforce support obligations of other jurisdictions in this state by the withholding of income derived in this state shall be brought in accordance with Chapter 3A, commencing with Section 30-3A-101, of Title 30.

and the affidavit requirement is described in Ala. Code § 6-9-233(a), which provides that:

(a) At the time of filing, the judgment creditor, or his lawyer, shall make and file with the clerk of the circuit court an affidavit setting forth the name and last known post office address of the judgment debtor, and the judgment creditor. In addition, such affidavit shall include a statement that the foreign judgment is valid, enforceable, and unsatisfied.

Ala. Code §§ 6-9-232 and 233(a).⁵

Strict compliance with both the authentication requirements and the affidavit requirements is essential to properly domesticate a state court foreign judgment under the Uniform Act. Alabama Rule of Civil Procedure 44(a)(1) provides that to authenticate a foreign judgment, a party must provide a:

⁵ Copies of Ala. Code § 6-9-232 and Ala. Code § 6-9-233(a) are attached hereto as **Exhibit "C"** and **Exhibit "D,"** respectively.

copy [of the judgment] attested by a person purporting to be the officer having the legal custody of the record, or by the officer's deputy. If the official record is kept without the state, the copy shall be accompanied by a certificate under oath of such person that such person is the legal custodian of such record and that the laws of the state require the record to be kept.

See Ala. R. Civ. P. 44(a)(1).⁶

Note that in addition to a copy of the judgment there are two separate pieces of information that must be contained in the certificate from the clerk of the court where the foreign judgment was entered: (1) that such person is the legal custodian of such record, and (2) that the laws of the state require the record to be kept. *See* Ala. R. Civ. P. 44(a)(1). If either one is missing from the certificate, it may give the judgment debtor a basis to challenge the foreign judgment as being inauthentic. *See Gilpin Brokerage Co., Inc. v. Northwest Acceptance Corp.*, 465 So.2d 1161 (Ala. Civ. App. 1985) (finding under Rule 44(a)(1) that a copy of a foreign judgment from an Oregon court that was filed for domestication in Alabama was not admissible as evidence even though it was both certified by the clerk of the Oregon court and had the Oregon state seal affixed to it because the certification failed to state that a record of the judgment was required to be kept under the laws of Oregon).⁷

The affidavit accompanying the foreign judgment should strictly track the language of Ala. Code § 6-9-233(a). The affiant must be either (1) the judgment creditor or (2) the lawyer

⁶ A copy of Rule 44(a) is attached hereto as **Exhibit "E."**

⁷ In my experience, most attorneys file a "triple certified" or exemplified copy of the foreign judgment. The name "triple certified" comes from the fact that the authenticity of the judgment is sworn to by the clerk of the court where the judgment was rendered, then signed by the judge or presiding judicial officer of that court, and then signed again by the clerk of court to swear to the authenticity of the judge's signature. While these forms attest to the authenticity of the judgment and have never been challenged in any action that I know of, **they often do not strictly comply with Rule 44(a)(1)'s requirement that the certification state that "the laws of the state require the record to be kept."** For this reason, you may want to advise your out-of-state counsel who is procuring the authenticated copy of the foreign judgment to make sure that the certification contains all of the "magic language" required by Rule 44(a)(1).

for the judgment creditor;⁸ the affiant must testify regarding the name and last known post office address of the judgment debtor and the judgment creditor; and the affiant must testify that the foreign judgment is valid, enforceable, and unsatisfied. *See* Ala. Code § 6-9-233(a).

After the authenticated copy of the foreign judgment and the affidavit have been filed, the clerk of the Alabama circuit court where the foreign judgment is filed is required by Ala. Code § 6-9-233(b) to mail notice to the judgment debtor at his/her last known address and make a note of the mailing in a special docket set up by the clerk for foreign judgment filings. In addition to the clerk's notice, **you should mail your own notice** of the foreign judgment filing to the judgment debtor and file a certificate of service regarding the mailing with the clerk. This is specifically permitted and contemplated by Ala. Code § 6-9-233(b), which provides that:

(b) Promptly upon the filing of the foreign judgment and the affidavit, the clerk shall mail notice of the filing of the foreign judgment to the judgment debtor at the address given and shall make a note of the mailing in the special docket. The notice shall include the name and post office address of the judgment creditor and the judgment creditor's lawyer, if any, in this state. In addition, the judgment creditor may mail notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed.

See Ala. Code § 6-9-233(b). Note that neither you nor the clerk of court is required to serve the judgment debtor with a summons or other process as would normally be required upon the filing of a new lawsuit by Rule 4 of the Alabama Rules of Civil Procedure (in other words, the judgment debtor is not entitled to the kind of notice ordinarily required by due process and failure to actually serve the judgment debtor is not an impediment to domestication). *See Nix v.*

⁸ It seems preferable for the affiant to either be the client (the judgment creditor) or the lawyer who obtained the original judgment that is being domesticated (not the lawyer who is handling the Alabama domestication). The reason for this is that from an evidentiary perspective, the Alabama lawyer who is handling the domestication likely does not have personal knowledge regarding the subjects of the affidavit testimony required by the statute (addresses for the creditor and judgment debtor; and whether the foreign judgment is valid, enforceable, and unsatisfied). By contrast, the client and the lawyer who obtained the original judgment should have direct and personal knowledge regarding the circumstances under which the judgment was obtained.

Cassidy, 899 So.2d 998, 1002 (Ala. Civ. App. 2004) ("domestication of a valid foreign judgment under the procedures of the UEFJA amply protects a judgment debtor's due-process rights in that (1) the basic due-process requirements of notice and hearing have already been met by the court that rendered the original judgment, (2) notice is mailed to the last-known address of the judgment debtor at the time the foreign judgment is filed, and (3) an additional stay of enforcement of the judgment and further hearings can be sought and obtained").

Once the mailing requirement has been satisfied, the state court foreign judgment is then considered domesticated in Alabama. There is no need for the Alabama circuit court⁹ to enter a separate or new order recognizing the foreign judgment. Nor is there any requirement that an Alabama judgment be entered. *See In re. Camp*, 310 B.R. 634, 642 (Bankr. N.D. Ala. 2004) ("There is no provision for or requirement that a new judgment order of an Alabama court be issued before such a certificate of judgment may be obtained. Indeed, the opposite is what is intended under the AUEFJA"). This saves time because the judge assigned to the foreign judgment action is not required to do anything further in order for the foreign judgment to take effect in Alabama.¹⁰

⁹ Note that Ala. Code § 6-9-232 specifically states that you may domesticate a foreign judgment in ANY circuit court in this state. That means that you may file the domestication in Jefferson County, for example, even if the judgment debtor lives in Baldwin County.

¹⁰ It has been the author's experience that having no order or judgment entered by an Alabama circuit court creates a practical problem with regard to the amount of the foreign judgment. The reason for this is that post-judgment interest has often accrued between the date that the underlying judgment was entered and the date that it is filed for recognition in Alabama. Without any Alabama court order or judgment specifying the exact amount of post-judgment interest that has accrued, the certificate of judgment issued by the clerk of the Alabama circuit court will not include any amount for post-judgment interest. This can create issues down the road when you pursue collection of the foreign judgment because the judgment debtor may take the position that you are only entitled to collect the amount listed on the certificate of judgment rather than a larger amount that includes accrued post-judgment interest. The author's suggestion is to include in your domestication filing a letter to the clerk setting out a calculation of the post-judgment interest that has accrued along with a copy of the relevant post-judgment interest statute from the state in which the underlying judgment was entered.

Copies of the *Notice of Filing of Foreign Judgment*, the *Affidavit in Support of Notice of Filing of Foreign Judgment*, and the *Certificate of Service of Notice of Filing of Foreign Judgment* forms used by the author are attached collectively hereto as **Exhibit "F."**

2. Common Law Method

In order to domesticate a state court foreign judgment using the common law method, you must file what amounts to a regular collection lawsuit under Alabama law. **But this method is not as good as the Uniform Act method** because "Alabama courts recognize a judgment of another jurisdiction only as 'evidence of a debt or duty, and as fixing an obligation between the parties.'" *See Camp, supra* at 642 (citing to *Continental Auto Ins. Underwriters v. Menuskin*, 222 Ala. 370, 132 So. 883, 885 (1931)). Put another way, domesticating a foreign judgment using the common law method is no different from suing on the promissory note that likely formed the basis for the foreign judgment that your client already obtained. It requires "[t]he usual essentials of a complaint, summons, service, return of service, and so on, necessary to comply with ... a traditional lawsuit in an Alabama court." *See Camp, supra* at 639. Filing the domestication this way would also require the entry of judgment by the Alabama circuit court, which is one more additional step that is not needed if you use the Uniform Act method instead.

C. Defenses Available to Judgment Debtor in Response to Filing of Registration or Domestication of Foreign Judgment

The defenses available to a judgment debtor in response to the filing of a registration of a federal court foreign judgment or domestication of a state court foreign judgment are **very limited** and may be boiled down to whether or not the out-of-state court had the right to enter the foreign judgment in the first place.

In federal court registrations, the statute itself (28 U.S.C. § 1963) does not mention any defenses that are available to the judgment debtor; satisfaction of the underlying judgment is the

only matter mentioned that is analogous to a defense under the statute. *See* 28 U.S.C. § 1963. Case law on whether any defenses are available indicates that jurisdictional challenges (i.e. that the underlying court lacked jurisdiction) are the only defenses available to a judgment debtor. *See Harper Macleod Solicitors v. Keaty & Keaty*, 260 F.3d 389, 394-95 (5th Cir. 2001) (agreeing with majority of other circuit courts that have held that registering courts may void default judgments if the rendering court lacked jurisdiction over the defendant and cataloging supporting decisions of the other circuit courts).¹¹

Similarly, in state court domestications, "the only basis to challenge domestication is that the foreign court did not have jurisdiction to enter the judgment." *Directory Assistants, Inc. v. Cooke, Cameron, Travis and Co., P.C.*, 49 So.3d 1175, 1180 (Ala. Civ. App. 2010) ("authentication and filing of a foreign court's judgment with an Alabama circuit court pursuant to the UEFJA 'creates a rebuttable presumption that the court rendering that judgment had jurisdiction to do so and shifts to the party challenging that judgment the burden of producing evidence to rebut the presumption' when the party challenging the judgment 'produce[s] no evidence to ... rebut the presumption that the [foreign] court had jurisdiction to enter [its] judgment,' there is no valid basis for an Alabama circuit court to set aside its judgment based upon the foreign registered judgment").

II. Perfection – From This Day Forward

The second step in domesticating a foreign judgment is to record a copy of the now-domesticated foreign judgment in Alabama's real estate records. This is done through the

¹¹ The Eleventh Circuit Court of Appeals has not directly ruled on this issue but it has held that federal district courts in which a foreign judgment registration action is filed have authority to grant relief to a judgment debtor when the foreign judgment is registered in violation of 28 U.S.C. § 1963. *See Oakes v. Horizon Financial, S.A.*, 259 F.3d 1315 (11th Cir. 2001). For this reason, it seems reasonable to assume that the Eleventh Circuit would permit a judgment debtor to challenge the propriety of a foreign judgment registration action based on other jurisdictional challenges. *But see Sephus v. Gozelski*, 864 F.2d 1546 (11th Cir. 1989) (holding that 28 U.S.C. § 1963 did not confer jurisdiction on the registering federal district court to set aside an execution sale that violated state law).

Alabama probate courts but different procedures apply depending upon whether you are recording a registered federal court foreign judgment or a domesticated state court foreign judgment.

A. Perfection of Foreign Judgment Entered by Federal Court

Like with its domestication counterpart, perfecting a registered federal court foreign judgment is simple. The procedure is governed by Ala. Code § 6-9-210, which provides that:

The owner of any judgment entered in any court of this state or of the United States held in this state may file in the office of the judge of probate of any county of this state a certificate of the clerk or register of the court by which the judgment was entered, which certificate shall show the style of the court which entered the judgment, the amount and date thereof, the amount of costs, the names of all parties thereto and the name of the plaintiff's attorney and shall be registered by the judge of probate in a book to be kept by him for that purpose, which said register shall also show the date of the filing of the judgment. Said judge shall make a proper index to said book, which shall also show under the proper letter or letters of the alphabet the names of each and every defendant to said judgment, and such judgments shall be recorded in chronological order of the filing of such judgments. Such certificate shall also show the address of each defendant or respondent, as shown in the court proceedings.

Ala. Code § 6-9-210.¹² Under the statute, a registered federal court foreign judgment may be perfected against any real estate owned by the judgment debtor by obtaining a certificate of judgment from the Alabama federal district court (the court where you filed the domestication action) and filing the certificate of judgment in each Alabama county wherein you believe the judgment debtor may own real estate.¹³

Make sure that what you file with the probate court is a **certificate of judgment** and **not** a copy of the judgment itself. Only an actual certificate of judgment will satisfy the requirements for perfection set out in Ala. Code § 6-9-210. *See In re. Camp, supra* at 642 ("the

¹² A copy of Ala. Code § 6-9-210 is attached hereto as **Exhibit "G."**

¹³ Once filed, the certificate of judgment creates a judgment lien against any interest in real estate owned by the judgment debtor in that particular county. *See* Ala. Code § 6-9-11, a copy of which is attached hereto as **Exhibit "H."**

recording of a copy of the Alabama court's judgment, whether certified or authenticated, does not under Alabama's statutes create or perfect a lien on properties of a judgment debtor in the county where recorded in the Probate Office").

Once you file a certificate of judgment in each Alabama county wherein you believe that the judgment debtor may own real estate, your second step in domesticating the foreign judgment is complete. Each certificate of judgment will constitute a judgment lien against any interest owned by the judgment debtor for ten (10) years from the date of the registered federal court foreign judgment. *See* Ala. Code § 6-9-11.

B. Perfection of Foreign Judgment Entered by State Court

Similar to the domestication of a state court foreign judgment, there are two different procedures available to perfect a domesticated state court foreign judgment in Alabama. Both procedures are available under the Uniform Act but the first method (**which is the one you will want to use**) is a duplicate of the federal procedure for perfection discussed above whereas the second method is a non-uniform method that requires more work and offers a less desirable result. Both methods are discussed separately below.

1. Perfection by Filing a Certificate of Judgment Pursuant to Ala. Code § 6-9-210

The easiest way to perfect a domesticated state court foreign judgment is to use Ala. Code § 6-9-210. Under that statute, you may perfect such a judgment by obtaining a certificate of judgment from the Alabama circuit court in which you filed the domestication. You then record the certificate of judgment in the probate courts for each county in Alabama wherein you believe the judgment debtor may own property (once your judgment is domesticated, you can record a certificate of judgment in as many counties as you want; this is different than under Ala. Code § 6-9-237, which is discussed below and only permits you to record a certificate of

judgment in the same county where you domesticated). Make sure that you record a certificate of judgment. **Do not record** a copy of the judgment itself because that does not comply with the requirements of the statute and will not result in a judgment lien attaching to the judgment debtor's property. See *In re. Camp, supra* at 646 ("the [creditors] did not receive and file a certificate of judgment issued by any Alabama circuit court clerk using this AUEFJA procedure ... the result is that this method, which could have been employed under the AUEFJA, was not used by the [creditors] to obtain a lien against any of [the judgment debtor's] properties").

2. Perfection by Filing a Certificate of Judgment Pursuant to Ala. Code § 6-9-237

A more difficult and less effective way to perfect a domesticated state court foreign judgment is to use Ala. Code § 6-9-237, which provides that:

A copy of a foreign judgment authenticated in the manner described in Section 6-9-232 and filed in the circuit court may be recorded in the probate office as provided for judgments of the circuit courts of this state, and its being so filed shall have the same force and effect as the filing of a certificate of a judgment obtained in a circuit court of this state.

See Ala. Code § 6-9-232. This method of perfection **is not recommended by the author** because the Alabama Supreme Court has interpreted the statute to require that only an **authenticated** copy of the domesticated state court foreign judgment (as opposed to a certificate of judgment) may be recorded in the probate court records. See *Pope v. Gordon*, 922 So.2d 893, 898 (Ala. 2005) ("the use of the past tense in the phrase 'and filed in the circuit court' in § 6-9-237 indicates that the filing required by § 6-9-232 and § 6-9-233 must have already taken place in the circuit court before the filing in the probate office"). Further diminishing the usefulness of the statute, the Alabama Supreme Court has held that Ala. Code § 6-9-237 only permits recording in the **same county** where you domesticated the state court foreign judgment in the first place (Ala. Code § 6-9-210, by contrast, lets you recording in **any** county in Alabama

whether you have filed a domestication action there or not). *See Pope* at 898 ("§ 6–9–232 allows the filing of a foreign judgment in 'any' circuit court, but § 6–9–237 provides that the foreign judgment filed in 'the circuit court may be recorded in the probate office.' This suggests that in order for a foreign judgment to be recorded pursuant to § 6–9–237, the judgment may be filed only in the probate office of the same county as the circuit court in which the foreign judgment is being domesticated").

C. Stay of Proceedings to Perfect or Enforce Foreign Judgment

With regard to both a registered federal court foreign judgment as well as a domesticated state court foreign judgment, it is the author's opinion that **immediately** upon filing the foreign judgment, you may obtain a certificate of judgment from the clerk of court and record it in the appropriate Alabama probate courts (doing this will give your client a judgment lien against any property interests owned by the judgment debtor in the counties where the probate courts are located). But you **cannot** pursue collection of the foreign judgment until the expiration of the automatic stay period that begins to run on the date that you register or domesticate the foreign judgment.

1. Federal Court Foreign Judgment.

The statute providing for registration of a federal court foreign judgment, 28 U.S.C. § 1963, does not stay perfection or enforcement of the registered judgment for any period of time. But it does provide that "[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," *See* 28 U.S.C. § 1963, which the author believes may be reasonably interpreted to mean that the holder of a registered foreign judgment must wait out the **14 day period** required by Rule 62(a) of the Federal Rules of Civil Procedure before pursuing collection actions against the judgment

debtor.¹⁴ Note, however, that you may go ahead and immediately record a certificate of judgment regarding the registered federal court foreign judgment because the automatic stay imposed by Rule 62(a) does not apply to the recording of a certificate of judgment. *See In re. Rainbow Trust*, 216 B.R. 77, 86 (2nd Cir. BAP 1997) ("the recording of a judgment does not constitute a proceeding to enforce a judgment and therefore is not prohibited by Rule 62").

2. State Court Foreign Judgment.

The statutes providing for domestication of a state court foreign judgment provide an automatic stay of enforcement (but not perfection) of the registered judgment for a period of **30 days** from the date that the domestication is filed, *See* Ala. Code § 6-9-233(c), and permit the judgment debtor to obtain a further stay if he/she can show that the underlying judgment has been or is going to be appealed; that a stay of execution has been granted; or that any other basis exists under which an Alabama court would stay enforcement of the foreign judgment. *See* Ala. Code 9-9-234.

There is some uncertainty regarding whether you may record a certificate of judgment prior to the expiration of the 30 day automatic stay provided by Ala. Code § 6-9-233(c), *See Camp, supra* at 645 n.8 ("There is also a further complication arising from an optional, yet uniform provision of the UEFJA, enacted by Alabama, set forth in Ala.Code § 6-9-233(c), that '[n]o execution or other process for enforcement of a foreign judgment filed hereunder shall issue until 30 days after the date the judgment is filed.' Whether issuance of a certificate of judgment for recording in a Probate Office or the filing of the foreign judgment allowed by Ala.Code § 6-9-237 are within the 'other process for enforcement of a foreign judgment' language subject to the thirty day delay need not be resolved by this court"), but it is the author's opinion that filing a certificate of judgment prior to the expiration of the 30 day stay provided by Ala. Code 6-9-

¹⁴ The author is not aware of any federal court decision interpreting this narrow issue.

233(c) does not violate that statute. The reason for this is because the stay provided by that statute is analogous to the 30 day stay provided by Rule 62(a) of the Alabama Rules of Civil Procedure¹⁵ and the Rule 62(a) stay does not prevent the recording of a certificate of judgment. See *In re. Sintz*, 162 B.R. 572, 573-74 (Bankr. S.D. Ala. 1993) (citing to *Johnson v. Haleyville Mobile Home Supply*, 477 So.2d 328 (Ala. 1985) in support of its conclusion that "the supreme court concluded Rule 62 only prevents enforcement of the judgment for thirty (30) days; it does not prevent recording of a certificate of judgment").

¹⁵ Below is a comparison of the relevant language of Ala. Code § 6-9-233(c) against the language of Rule 62(a):

Ala. Code § 6-9-233(c)	(c) No execution or other process for enforcement of a foreign judgment filed hereunder shall issue until 30 days after the date the judgment is filed.
Rule 62(a)	(a) Automatic Stay; Exceptions. Except as stated herein or as otherwise provided by statute or by order of the court for good cause shown, no execution shall issue upon a judgment nor shall proceedings be taken for its enforcement until the expiration of thirty (30) days after its entry.

EXHIBIT A

United States Code Annotated

Title 28. Judiciary and Judicial Procedure (Refs & Annos)

Part V. Procedure

Chapter 125. Pending Actions and Judgments (Refs & Annos)

28 U.S.C.A. § 1963

§ 1963. Registration of judgments for enforcement in other districts

Effective: October 19, 1996

Currentness

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.

CREDIT(S)

(June 25, 1948, c. 646, 62 Stat. 958; Aug. 23, 1954, c. 837, 68 Stat. 772; July 7, 1958, Pub.L. 85-508, § 12(o), 72 Stat. 349; Nov. 19, 1988, Pub.L. 100-702, Title X, § 1002(a), (b)(1), 102 Stat. 4664; Nov. 29, 1990, Pub.L. 101-647, Title XXXVI, § 3628, 104 Stat. 4965; Oct. 19, 1996, Pub.L. 104-317, Title II, § 203(a), 110 Stat. 3849.)

Notes of Decisions (121)

28 U.S.C.A. § 1963, 28 USCA § 1963

Current through P.L. 114-119, 114-121, 114-123, 114-124, 114-126, 114-129 to 114-131, 114-133 to 114-135, and 114-137.

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EXHIBIT B

UNITED STATES DISTRICT COURT
for the

<i>Plaintiff</i>)	
v.)	Civil Action No.
<i>Defendant</i>)	

CLERK'S CERTIFICATION OF A JUDGMENT TO BE REGISTERED IN ANOTHER DISTRICT

I certify that the attached judgment is a copy of a judgment entered by this court on *(date)* _____ .

I also certify that, as appears from this court's records, no motion listed in Fed. R. App. P. 4(a)(4)(A) is pending before this court, the time for appeal has expired, and no appeal has been filed or, if one was filed, it is no longer pending.

Date: _____

CLERK OF COURT

Signature of Clerk or Deputy Clerk

EXHIBIT C

§ 6-9-232. Filing judgment with clerk of circuit court; effect of judgment., AL ST § 6-9-232

Code of Alabama

Title 6. Civil Practice. (Refs & Annos)

Chapter 9. Judgments.

Article 10. Uniform Enforcement of Foreign Judgments Act. (Refs & Annos)

Ala.Code 1975 § 6-9-232

§ 6-9-232. Filing judgment with clerk of circuit court; effect of judgment.

Currentness

A copy of any foreign judgment authenticated in accordance with an act of Congress or the statutes of this state may be filed in the office of the clerk of any circuit court of this state. A clerk of any circuit court shall note the filing in a special docket set up for foreign judgments. A judgment so filed has the same effect and is subject to the same procedures, defenses and proceedings for reopening, vacating, or staying as a judgment of a circuit court of this state and may be enforced or satisfied in like manner; provided, however, that any proceeding that is brought to enforce support obligations of other jurisdictions in this state by the withholding of income derived in this state shall be brought in accordance with Chapter 3A, commencing with Section 30-3A-101, of Title 30.

Credits

(Acts 1986, Ex. Sess., No. 86-713, p. 127, § 3; Acts 1997, No. 97-245, p. 398, § 2.)

Notes of Decisions (18)

Ala. Code 1975 § 6-9-232, AL ST § 6-9-232

Current through Act 2016-143 of the 2016 Regular Session.

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EXHIBIT D

Code of Alabama
Title 6. Civil Practice. (Refs & Annos)
Chapter 9. Judgments.
Article 10. Uniform Enforcement of Foreign Judgments Act. (Refs & Annos)

Ala.Code 1975 § 6-9-233

§ 6-9-233. Filing requirements; notice of filing; when execution may issue.

Currentness

(a) At the time of filing, the judgment creditor, or his lawyer, shall make and file with the clerk of the circuit court an affidavit setting forth the name and last known post office address of the judgment debtor, and the judgment creditor. In addition, such affidavit shall include a statement that the foreign judgment is valid, enforceable, and unsatisfied.

(b) Promptly upon the filing of the foreign judgment and the affidavit, the clerk shall mail notice of the filing of the foreign judgment to the judgment debtor at the address given and shall make a note of the mailing in the special docket. The notice shall include the name and post office address of the judgment creditor and the judgment creditor's lawyer, if any, in this state. In addition, the judgment creditor may mail notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed.

(c) No execution or other process for enforcement of a foreign judgment filed hereunder shall issue until 30 days after the date the judgment is filed.

Credits

(Acts 1986, Ex. Sess., No. 86-713, p. 127, § 4.)

Notes of Decisions (11)

Ala. Code 1975 § 6-9-233, AL ST § 6-9-233
Current through Act 2016-143 of the 2016 Regular Session.

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EXHIBIT E

Code of Alabama
Alabama Rules of Court
Alabama Rules of Civil Procedure
VI. Trials

ARCP Rule 44

Rule 44. Proof of Documents

Currentness

(a) Authentication.

(1) *Domestic.* An official record kept within the United States, or any state, district, commonwealth, territory, or insular possession thereof, or within a territory subject to the administrative or judicial jurisdiction of the United States or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by a person purporting to be the officer having the legal custody of the record, or by the officer's deputy. If the official record is kept without the state, the copy shall be accompanied by a certificate under oath of such person that such person is the legal custodian of such record and that the laws of the state require the record to be kept.

(2) *Foreign.* A foreign official record, or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof; or a copy thereof, attested by a person authorized to make the attestation, and accompanied by a final certification as to the genuineness of the signature and official position (i) of the attesting person, or (ii) of any foreign official whose certificate of genuineness of signature and official position relates to the attestation or is in a chain of certificates of genuineness of signature and official position relating to the attestation. A final certification may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States. If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of the documents, the court may, for good cause shown, (i) admit an attested copy without final certification or (ii) permit the foreign official record to be evidenced by an attested summary with or without a final certification. The final certification is unnecessary if the record and the attestation are certified as provided in a treaty or convention to which the United States and the foreign country in which the official record is located are parties.

(b) Lack of Record. A written statement that after diligent search no record or entry of a specified tenor is found to exist in the records designated by the statement, authenticated as provided in subdivision (a)(1) of this rule in the case of a domestic record, or complying with the requirements of subdivision (a)(2) of this rule for a summary in the case of a foreign record, is admissible as evidence that the records contain no such record or entry.

(c) Other Proof. This rule does not prevent the proof of records or of entry or lack of entry therein by any method authorized by any applicable statute or by the rules of evidence at common law.

(d) Original Documents. Documents of any class, no matter where kept, may be proven by the original, authenticated as provided in this rule. If a document has been altered, or appears to have been altered, after its execution, in a part material to the question in dispute, the party producing the document as genuine must account for the appearance or alteration. Such party may show that the alteration was made by another, without that party's concurrence, or was made with the consent of the parties affected by it, or otherwise properly or innocently made, or that the alteration did not change the meaning of the language of the instrument. If the party producing the document makes such showing, such party may give the document in evidence. If the party producing the document is unable to make such showing, the document may be received in evidence with any objections as to the alterations affecting the weight to which the document is entitled, but not the admissibility of the document.

(e) Documents Recorded Under Recording Act. Every instrument permitted or required by law to be recorded in the office of the judge of probate, and which has been proved or acknowledged in the manner provided by law in force at the time of its execution, may be read in evidence without further proof and shall be prima facie evidence of the facts therein stated. The record of any such instrument or a certified copy of the record may also be read in evidence with like effect as the original. The official entry of the proper officer on a paper shall be sufficient evidence of its registry. If the original of any paper, properly registered, is lost or destroyed, a certified copy from the registry shall be deemed good secondary evidence. If the original is found to have been recorded, and it does not appear whether it was done on proper probate, the court shall presume, until the contrary appears, that the same was done on proper probate.

(f) Judgments. A judgment is admissible between any parties to show the fact of the rendition thereof; between parties and privies thereto it is conclusive as to the matter directly in issue, until reversed or set aside.

(g) Books, Maps, etc., as Evidence. Historical works, books of science or art and published maps or charts, when made by persons indifferent between the parties, are prima facie evidence of facts of general notoriety and interest.

(h) Business Entries. Any writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence, or event, shall be admissible in evidence in proof of said act, transaction, occurrence or event, if it was made in the regular course of any business, profession, occupation, or calling of any kind, and it was the regular course of the business, profession, occupation or calling to make such memorandum or record at the time of such act, transaction, occurrence, or event, or within a reasonable time thereafter. Such a writing may be photostated, or it may be photographed or microphotographed on plate or film, and such photostat, photographic or microphotographic plate or film, or prints thereof, whether enlarged or not, shall be deemed to be an original record and shall be presumed to be a true and correct reproduction of the original record it purports to represent. The circumstances of the making of such writing or record, including lack of personal knowledge by the entrant or maker, and the circumstances of making such photostat or other photographic copy thereof, may be shown to affect its weight but they shall not affect its admissibility. Any person having a right to have an original record preserved or to inspect the original writing or record or other rights in connection therewith shall have the same rights as to any photostat, photographic or microphotographic plate or film or prints made therefrom, in the event the original is not available, and custodian of such plate and film shall provide for the ready location of particular records so reproduced and shall provide a projector or other convenient means for viewing the records so reproduced by those entitled thereto and said custodian shall furnish a legible print or copy of such plate or film to such persons as are entitled to a copy of the original record.

(i) Proof of Private Documents. The execution of any instrument of writing attested by witnesses may be proved by the

Rule 44. Proof of Documents, AL R RCP Rule 44

testimony of the maker thereof, without producing or accounting for the absence of attesting witnesses. In all other cases the subscribing witness must be produced, if possible, to prove execution of private documents, unless the document is an ancient writing which proves itself, or is self-proving or properly acknowledged, or is an official bond required by law to be approved or tested by a particular functionary, or is only incidentally or collaterally material to the case. Whenever the subscribing witnesses are dead, insane, incompetent, or are without the state, or their residence is unknown, or, being produced, they do not recollect the transaction, then proof of the actual signing by, or of the handwriting of, the alleged maker or subscribing witness, shall be received as primary evidence of the fact of execution; and if such evidence be not attainable, the court may admit evidence of the handwriting of the subscribing witness, or other secondary evidence, to establish such fact of execution.

(j) Proof of Handwriting. Whenever the genuineness of the handwriting of any person may be involved, any admitted or proved handwriting of such person shall be competent evidence as a basis for comparison to prove or disprove such genuineness. Comparison of a disputed writing with any writing admitted or proven to the reasonable satisfaction of the court to be genuine shall be permitted to be made by witnesses who are qualified as experts, or who are familiar with the handwriting of the person whose handwriting is in question.

(dc) District Court Rule. Rule 44 applies in the district courts.

Credits

[Amended effective October 1, 1995.]

Editors' Notes

COMMITTEE COMMENTS ON 1973 ADOPTION

Alabama has a multitude of statutes on Proof of Official Records and other documents. Many of these statutes overlap while many cover only limited records or limited public officers. In some instances, the method of proof is as simple and as liberal as under this rule, but in other instances, the statutes call for complex and restrictive methods of proof. According to Wigmore, these statutes "encumber the law with petty meticulous rules, each applicable only to an individual class of officers or documents". 5 Wigmore, § 1638 (3rd Edition 1940).

Rule 44 consolidates into one rule many statutes and insures one simple method of proof which can be used for all official records.

There are some Alabama statutes, however, which not only state a method of proof of official records or other documents, but go on to give these records and documents effect in evidence as prima facie proof of the facts stated therein. The Federal Rule does not treat this situation. Subdivisions (d) through (g) incorporate these provisions in existing Alabama law in a method similar to the provision of Arizona Rules of Civil Procedure 44. Further, the Federal Rule does not cover methods of proof of documents other than official records. In order to have all the law in one convenient place, Alabama statutes on this subject have been added as subdivisions (g) through (j) of the rule.

Rule 44(a) is very similar to the companion Federal Rule. Tit. 7, § 396, Code of Ala., provides that the certificate of the head of any bureau or department of the Government of this state is sufficient authentication of any paper or document appertaining to his office. The companion Federal Rule requires, in addition to the certificate of the officer, an additional certificate stating that such officer in fact has the custody of the document. The advantages of this provision have been woven

Rule 44. Proof of Documents, AL R RCP Rule 44

into Rule 44(a)(1). Therefore, an official record of the State of Alabama may be evidenced by a copy attested by a person purporting to be the officer having the legal custody of the record without further certification as to the authority of that officer. This is based upon a similar provision contained in the Vermont Rules of Civil Procedure.

The last sentence of Rule 44(a)(1) accomplishes the same purpose as Tit. 7, §§ 427 and 428, Code of Ala.

Rule 44(a)(2), Rule 44(b) and Rule 44(c) are identical to the Federal Rule.

Rule 44(d) incorporates the provisions of Tit. 7, §§ 432(6-8), permitting proof of any document by the original of said document. Tit. 7, § 430 denies admissibility to any document which appears to have been altered in a part material to the question in dispute which said alteration cannot be explained away. A literal reading of the statute would make it almost impossible to introduce in evidence any written instrument of any kind, as almost all contain erasures. The responsibility for accounting for such erasures before the instrument can be admitted in evidence places upon the party offering the instrument too high a burden of proof. An instrument that bears erasures or alterations should not be inadmissible but its legal effect and the weight to be given to such instrument in view of its condition, should be for the trier of fact. Tit. 7, § 430, Code of Ala., is superseded by this Rule. As now contained in the Rule, any such defect goes to the weight rather than the admissibility of the evidence.

Rule 44(e) is based on Arizona Rules of Civil Procedure 44(b). It carries over, but generalizes, the provisions of Tit. 7, §§ 391, 392, 409, 410 and Tit. 47, §§ 104 and 107, Code of Ala., dealing generally with documents recorded under a recording act.

Rule 44(f) treats the effect of judgments as evidence and is taken verbatim from Tit. 7, § 412, Code of Ala.

Rule 44(g) allows the use of maps, books, etc., and is taken verbatim from Tit. 7, § 413, Code of Ala.

Rule 44(h) permits proof of business entries and incorporated provisions of Tit. 7, §§ 383, 415, 415(1)-(3), Code of Ala.

Rule 44(i) sets out methods for proof of instruments other than official records (private documents) and is adapted from Tit. 7, §§ 416-418, Code of Ala.

Rule 44(j), on handwriting, is adapted from Tit. 7, §§ 420, 421, Code of Ala.

COMMITTEE COMMENTS TO OCTOBER 1, 1995, AMENDMENT TO RULE 44

Subdivision (a). This amendment incorporates generic references to territories under the jurisdiction of the United States. It also includes a provision for authentication of foreign records pursuant to a treaty.

Alabama Rules of Civil Procedure, Rule 44, AL R RCP Rule 44
Current with amendments received through February 25, 2016

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EXHIBIT F

NOTICE OF FILING OF FOREIGN JUDGMENT

Case Number

IN THE CIRCUIT COURT OF _____, ALABAMA
(Name of County)

NOTICE TO JUDGMENT DEBTOR:

I

1

L

J

Name of Judgment Creditor

Name of Judgment Creditor's Attorney

Address

Address

Name of Court Entering Foreign Judgment

Case Number of Court Entering Foreign Judgment

Date Foreign Judgment Entered

\$ _____
Amount of Foreign Judgment

NOTICE IS HEREBY GIVEN THAT THE ABOVE REFERRED FOREIGN JUDGMENT WAS FILED IN THE CIRCUIT CLERK'S OFFICE IN THE ABOVE NAMED COURT. THE JUDGMENT HAS THE SAME EFFECT AND IS SUBJECT TO THE SAME PROCEDURES, DEFENSES AND PROCEEDINGS FOR REOPENING, VACATING, OR STAYING AS A JUDGMENT OF A CIRCUIT COURT OF THIS STATE AND MAY BE ENFORCED OR SATISFIED IN LIKE MANNER. YOU ARE FURTHER NOTIFIED THAT NO EXECUTION OR OTHER PROCESS FOR ENFORCEMENT OF THIS FOREIGN JUDGMENT SHALL ISSUE UNTIL THIRTY (30) DAYS AFTER THE DATE THE JUDGMENT IS FILED.

Date Foreign Judgement Filed
In the Circuit Clerk's Office:

(Date)

CLERK

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

FOREIGN JUDGMENT CREDITOR,)

Plaintiff,)

v.)

ALABAMA JUDGMENT DEBTOR,)

Defendant.)

Civil Action No.: CV-2016-_____

AFFIDAVIT IN SUPPORT OF NOTICE OF FILING OF FOREIGN JUDGMENT

STATE OF ALABAMA)

COUNTY OF JEFFERSON)

I, _____, being first duly sworn, do hereby testify and affirm that I am over nineteen (19) years of age, of sound mind and have personal knowledge of the following facts:

1. I am one of the attorneys of record for the above-named Plaintiff (the "Plaintiff/Judgment Creditor").

2. The Summons and Complaint in the matter styled _____, Civil Action No.: _____ (the "Foreign Action"), in the _____ (the "Foreign Court") were served upon Defendant (the "Defendant / Judgment Debtor"), on _____.

3. On _____, the Foreign Court entered a judgment in the Foreign Action in favor of Plaintiff/Judgment Creditor and against Judgment Debtor in the amount of \$ _____ (the "Judgment").

4. Additionally, pursuant to _____ (the "Foreign State Post-Judgment Interest Statute"), Plaintiff/Judgment Creditor is entitled to post-judgment interest from the date of entry of the Judgment at the rate of _____% per diem; therefore, as of _____, Plaintiff/Judgment Creditor is entitled to post-judgment interest in the amount of \$_____.

5. Accordingly, as of _____, the total amount of the Judgment for which the Judgment Debtor is obligated is \$_____.

6. Pursuant to the requirements of Ala. Code § 6-9-233(a), the last known address of Defendant/Judgment Debtor is as follows:

Additionally, Plaintiff/Judgment Creditor's mailing address is:

7. An original exemplified copy of the Judgment is attached hereto as "**Exhibit A.**"
The Judgment remains valid, enforceable, and unsatisfied.

FURTHER AFFIANT SAITH NOT.

Attorney for Foreign Judgment Creditor

Sworn and subscribed to before me,
This the ____ day of _____, 2016.

Notary Public, State of _____
My commission expires: _____

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ALABAMA

FOREIGN JUDGMENT CREDITOR,)

Plaintiff,)

v.)

ALABAMA JUDGMENT DEBTOR,)

Defendant.)

Civil Action No.: CV-2016-_____

**CERTIFICATE OF SERVICE
OF NOTICE OF FILING OF FOREIGN JUDGMENT**

I hereby certify that I have served a copy of the Plaintiff's *Notice of Filing of Foreign Judgment* upon the Defendant at the addresses listed below, *via* U.S. Mail, properly addressed and postage prepaid, on this the _____ day of _____, 2016.

Attorney for Foreign Judgment Creditor

OF COUNSEL:

CHRISTIAN & SMALL LLP
1800 Financial Center
505 20th Street North
Birmingham, AL 35203
Phone: (205) 795-6588
Email: brh@csattorneys.com

EXHIBIT G

§ 6-9-210. Certificate of clerk or register to be filed with probate..., AL ST § 6-9-210

Code of Alabama

Title 6. Civil Practice. (Refs & Annos)

Chapter 9. Judgments.

Article 9. Registration of Judgments.

Ala.Code 1975 § 6-9-210

§ 6-9-210. Certificate of clerk or register to be filed with probate judge; registration and indexing by probate judge.

Currentness

The owner of any judgment entered in any court of this state or of the United States held in this state may file in the office of the judge of probate of any county of this state a certificate of the clerk or register of the court by which the judgment was entered, which certificate shall show the style of the court which entered the judgment, the amount and date thereof, the amount of costs, the names of all parties thereto and the name of the plaintiff's attorney and shall be registered by the judge of probate in a book to be kept by him for that purpose, which said register shall also show the date of the filing of the judgment. Said judge shall make a proper index to said book, which shall also show under the proper letter or letters of the alphabet the names of each and every defendant to said judgment, and such judgments shall be recorded in chronological order of the filing of such judgments. Such certificate shall also show the address of each defendant or respondent, as shown in the court proceedings.

Credits

(Code 1896, § 1920; Code 1907, § 4150; Code 1923, § 7874; Code 1940, T. 7, § 584; Acts 1975, No. 1060, p. 2121.)

Notes of Decisions (54)

Ala. Code 1975 § 6-9-210, AL ST § 6-9-210

Current through Act 2016-143 of the 2016 Regular Session.

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EXHIBIT H

Code of Alabama
Title 6. Civil Practice. (Refs & Annos)
Chapter 9. Judgments.
Article 9. Registration of Judgments.

Ala.Code 1975 § 6-9-211

§ 6-9-211. Judgment constitutes lien on property of defendant.

Currentness

Every judgment, a certificate of which has been filed as provided in Section 6-9-210, shall be a lien in the county where filed on all property of the defendant which is subject to levy and sale under execution, and such lien shall continue for 10 years after the date of such judgment; provided, that when an action or other proceeding to enforce or foreclose said lien is instituted or begun within said 10 years, but has not been completed, decided, or determined within said 10-year period, and at the time said action or proceeding is instituted or begun, or lien claimed therein, a lis pendens notice thereof is filed in the office of the judge of probate of the county in which said property is situated, the lien provided for in this section shall continue as to the property upon which said lien is claimed in said action or proceeding and may be enforced or foreclosed in that action as if said 10-year period had not elapsed. No insolvency proceedings or declaration of insolvency shall affect or impair such lien, except bankruptcy proceedings instituted within four months after the filing of the certificate of judgment for record as provided by law. The filing of said certificate of judgment, as provided in Section 6-9-210, shall be notice to all persons of the existence of the lien thereby created.

Credits

(Code 1896, § 1921; Code 1907, § 4157; Code 1923, § 7875; Code 1940, T. 7, § 585.)

Notes of Decisions (92)

Ala. Code 1975 § 6-9-211, AL ST § 6-9-211

Current through Act 2016-143 of the 2016 Regular Session.

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