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**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-3436-20**

ITRIA VENTURES, LLC,

Plaintiff-Respondent,

v.

JEFFREY SKLAR,

Defendant-Appellant.

Argued November 2, 2022 – Decided December 1, 2022

Before Judges Firko and Natali.

On appeal from the Superior Court of New Jersey, Law Division, Bergen County, Docket No. DJ-177509-17.

Abraham Borenstein argued the cause for appellant (Borenstein, McConnell & Calpin, PC, attorneys; Abraham Borenstein and Bradley M. Arlen, on the briefs).

Andrew Pincus argued the cause for respondent (Seidman & Pincus, LLC, attorneys; Mitchell B. Seidman, Andrew Pincus and Maria Arnott, on the brief).

PER CURIAM

Defendant Jeffrey Sklar appeals from a June 14, 2021 Law Division order denying his application to vacate a judgment domesticated under New Jersey's Uniform Enforcement of Foreign Judgments Act, N.J.S.A. 2A:49A-25 to -33 (UEFJA). The underlying judgment was entered by a New York court on March 28, 2017. Defendant contends the New York court erred when it entered judgment against him as it was obtained in violation of his due process rights and was the product of fraud. He argues as a result, both the underlying New York and the domesticated judgments are void as a matter of law. We reject all of defendant's arguments and affirm.

I.

Defendant's brother, Nathan Sklar (Nathan¹), is an owner and officer of Grand Street Medicine and Rehabilitation Center located in New York City. Defendant is a physician with a New York medical license which he allegedly provided to Grand Street to enable it to operate as a physical therapy and rehabilitation center. On numerous occasions, defendant also purportedly represented himself as an executive of Grand Street, including in several loan

¹ We use Nathan's first name to distinguish him from defendant as they share a common surname. We intend no disrespect in doing so.

transactions, and was listed as the owner of 100% of the company's stock in its 2017 federal tax return.

Plaintiff is in the business of purchasing accounts receivable. Between January 2016 and July 2017, plaintiff and Grand Street entered into fifteen financial transactions, referred to as Future Receivable Sale Agreements (FRSAs), in which plaintiff purchased the future accounts receivable of Grand Street and Grand Street agreed to remit the proceeds of its receivables until it satisfied the purchase amounts. To secure the FRSAs, personal guarantees and corresponding affidavits of confession of judgment were executed bearing Nathan's and defendant's signatures.

After Grand Street defaulted under the terms of a June 22, 2016 FRSA, plaintiff filed the corresponding affidavit of confession of judgment in New York, and the New York court entered judgment against Grand Street and defendant on March 28, 2017. Plaintiff domesticated that specific judgment against defendant in New Jersey pursuant to N.J.S.A. 2A:49A-25.

Green Street subsequently defaulted on the remaining FRSAs, and the New York court entered fourteen additional judgments against Grand Street and defendant. As best we can discern from the record, plaintiff did not domesticate those fourteen judgments in New Jersey.

On April 18, 2019, defendant commenced an action in New York to vacate all of plaintiff's judgments. Defendant claimed he never physically signed any of the relevant documents, but rather Nathan forged his signature on the FRSAs, the guarantees, and the affidavits of confession of judgment, and had the documents falsely notarized. Defendant also moved for a preliminary injunction to preclude plaintiff from enforcing its judgments pending an adjudication on the merits of his fraud claim.

After oral argument on defendant's application for injunctive relief, the New York court entered an order enjoining enforcement of the judgments on the condition that defendant post two bonds: (1) one for \$300,000 to stay enforcement of the March 28, 2017 judgment which was domesticated in New Jersey; and (2) one for \$1,000,000 to stay enforcement of the remaining fourteen judgments, which were not domesticated. After several extensions, defendant posted the first bond for \$300,000 and the parties then agreed plaintiff would not enforce the domesticated judgment in New Jersey while the preliminary injunction remained in effect.

The parties subsequently stipulated that defendant never physically signed any of the various FRSAs, guarantees, or affidavits of confession of judgment. Their stipulation expressly provided, however, that issues "remain to be litigated

in this case" as to "whether Nathan . . . had actual or apparent authority to sign [defendant]'s name to these documents."

Defendant asserts the New York litigation, though still pending, has since come to a standstill. Defendant accordingly filed an order to show cause in the Law Division: (1) requesting to vacate the domesticated judgment; or, in the alternative, (2) stay its enforcement and vacate the bond requirement.

Judge Gregg A. Padovano denied all of defendant's requested relief. He first determined there was "no basis to vacate the properly domesticated judgment against [defendant]" because his "[a]llegations of fraud asserted go to the basis of the underlying judgment and are subject of ongoing hearings which, to date, to the court's knowledge, have not resulted in the alteration of the underlying New York judgment which form[s] the basis [of] the domesticated Judgment here." The judge further concluded defendant's counsel failed to present competent evidence or a valid argument that the New York court violated defendant's due process rights.

Judge Padovano also denied defendant's request that the New Jersey court vacate the bond requirement imposed by the New York court to stay enforcement of the underlying New York judgment. Relying on Sonntag Reporting Serv., Ltd. v. Ciccarelli, 374 N.J. Super. 533, 539 (App. Div. 2005),

the judge concluded the New Jersey court lacked jurisdiction to alter the New York court's order. Finally, the judge determined defendant's request to stay enforcement of the domesticated judgment was moot because plaintiff had already stipulated to stay enforcement so long as defendant maintained the bond. This appeal followed.

II.

Defendant first argues the domesticated judgment should be vacated pursuant to Rule 4:50-1(c), (d), and (f). Specifically, he contends the New York judgment is deficient and not entitled to full faith and credit because he never signed the underlying affidavit of confession of judgment and, thus: (1) the judgment was the product of fraud; (2) the New York court denied him notice and an opportunity to be heard; and (3) the New York court lacked personal jurisdiction over him. We reject these arguments and find no basis at this juncture to deny full faith and credit to the New York judgment domesticated in New Jersey.

As the issues on appeal require us to address questions of law, we apply de novo review. Ewing Oil, Inc. v. John T. Burnett, Inc., 441 N.J. Super. 251, 259 (App. Div. 2015).

The United States Constitution requires that "Full Faith and Credit shall be given in each State to the public Acts, Records, and [J]udicial Proceedings of every other State." U.S. Const. art IV, § 1. A state must therefore enforce the judgment of a sister state "if rendered by a court with adjudicatory authority over the subject matter and persons governed by the judgment." Baker v. Gen. Motors Corp., 522 U.S. 222, 233 (1998).

When a party obtains a judgment in a sister state, the party may facilitate its enforcement by domesticating the judgment in New Jersey pursuant to the UEFJA. Through this process, New Jersey discharges its obligation to give full faith and credit to judgments entered in other states. Maine v. SeKap, S.A. Greek Co-op. Cigarette Mfg. Co., S.A., 392 N.J. Super. 227, 235 (App. Div. 2007) (citing Singh v. Sidana, 387 N.J. Super. 380, 382 (App. Div. 2006)). Domestication, however, is not an opportunity to collaterally attack the foreign judgment, except in very limited circumstances, such as the denial of due process in the state issuing the judgment. See Arnold, White & Durkee, Pro. Corp. v. Gotcha Covered, Inc., 314 N.J. Super. 190, 195-96 (App. Div. 1998).

A denial of due process occurs when "the rendering state (1) lacked personal jurisdiction over the judgement debtor, (2) lacked subject matter jurisdiction, [or] (3) failed to provide the judgment debtor adequate notice and

an opportunity to be heard." Sonntag Reporting Serv., Ltd., 374 N.J. Super at 538 (alteration in original) (quoting Choi v. Kim, 50 F.3d 244, 248 (3d Cir. 1995)). A foreign judgment may also be attacked if it was obtained through fraud on the rendering court. Arnold, White & Durkee, Pro. Corp., 314 N.J. Super. at 195-96. Sister courts may only inquire into such due process defenses, however, if "those issues have not been litigated in the forum court." Sonntag Reporting Serv., Ltd., 374 N.J. Super. at 538.

As noted, defendant's arguments rely, in part, on his assertion that he never signed, authorized to be signed, or ratified his signature on the affidavit of confession of judgment filed against him in New York. Accordingly, to deny full faith and credit to the New York judgment would require a New Jersey court to make a factual finding that his signature was invalid or made without his actual or apparent authority, which are issues currently being litigated in New York.

As we noted in Sonntag Reporting Serv., Ltd., 374 N.J. Super. at 538, "[t]rial courts of sister states may inquire into defenses of lack of jurisdiction in the foreign court or fraud in procurement of the judgment, provided that those issues have not been litigated in the forum court." That rule clearly applies here. Defendant's challenge to the judgment is ongoing in New York where he is

litigating his due process and fraud defenses, and enforcement of the judgments against him have been stayed pending adjudication of those defenses. Defendant is therefore precluded from litigating the same defenses in New Jersey under such circumstances.

Furthermore, under the principle of comity, our Supreme Court has noted, "[i]f we are to have harmonious relations with our sister states . . . comity and common sense counsel that a New Jersey court should not interfere with a similar, earlier-filed case in another jurisdiction that is 'capable of affording adequate relief and doing complete justice.'" Sensient Colors Inc. v. Allstate Ins. Co., 193 N.J. 373, 387 (2008) (citing O'Loughlin v. O'Loughlin, 6 N.J. 170, 179 (1951)). In the context of parallel litigation, we have recognized the principle that "the court first acquiring jurisdiction has precedence absent special equities," Bass v. DeVink, 336 N.J. Super. 450, 455 (App. Div. 2001), and "[t]here is ordinarily no reason to entertain subsequent local litigation paralleling an already instituted action in another state," ibid. (quoting Cogen Technologies v. Boyce Eng'g Int'l, Inc., 241 N.J. Super. 268, 273 (App. Div. 1990)).

As noted, to conclude defendant was defrauded, we would necessarily engage in the same fact-finding currently being undertaken by the New York

court. Such interference with the New York action is unnecessary in light of the fact that enforcement of the judgments against defendant has been stayed pending resolution of the New York action.

We provide the following additional comments addressing defendant's specific constitutional challenges. First, defendant's challenge to the New York and domesticated judgments based on his contention that the New York court denied him notice and an opportunity to be heard incorrectly presumes post-judgment process is insufficient to comply with due process requirements. We rejected a similar argument in Ewing Oil, Inc., a case in which the plaintiff domesticated a Maryland judgment that was entered pursuant to a provision contained in a guaranty agreement. 441 N.J. Super. at 256. The defendants there collaterally attacked the Maryland judgment in New Jersey on the grounds that they did not receive notice prior to its entry. Id. at 261. Defendants contended "the absence of pre-judgment notice violates basic due process and cannot be remedied by an opportunity to a post-judgment hearing." Id. at 259. We rejected defendants' argument and held the post-judgment process afforded by the Maryland courts fully complied with the rigors of due process. Id. at 263 (citing Tara Enters., Inc. v. Daribar Mgmt. Corp., 369 N.J. Super. 45, 56 (App. Div. 2004) ("In

certain contexts . . . a post-judgment hearing may afford the requisite due process.")).

The Law Division addressed a similar argument in United Pac. Ins. Co. v. Lamanna's Estate, 181 N.J. Super. 149 (1981). In that case, the plaintiff domesticated a judgment by confession entered in Pennsylvania. Id. at 153. The defendant then challenged the judgment on due process grounds, claiming she did not have "[an] intelligent understanding of the cognovit provision in her indemnity agreement," and she was therefore denied an opportunity to be heard on the matter prior to entry of judgment. Id. at 161. Unlike in Ewing Oil Inc., the court concluded the post-judgment procedures did not comply with due process. Id. at 163-64. Rather, the United Pacific court held post-judgment process complies with due process only if the defendant had an opportunity to challenge the judgment prior to the deprivation of her property. Ibid.

We are satisfied the New York court afforded defendant sufficient post-judgment process to challenge the New York judgment. As noted, defendant is currently litigating his fraud defense to the judgments, and enforcement of all judgments against him have been stayed pending that adjudication. Defendant has therefore received notice and an opportunity to be heard prior to deprivation of his property.

Second, the New York court properly exercised personal jurisdiction over defendant. "When a defendant asserts lack of personal jurisdiction, 'the plaintiff bears the burden of demonstrating that the defendant's contacts with the forum state are sufficient to confer personal jurisdiction on the court.'" Jacobs v. Walt Disney World, Co., 309 N.J. Super. 443, 454 (App. Div. 1998) (quoting Giangola v. Walt Disney World Co., 753 F.Supp. 148, 154 (D.N.J. 1990)). The defendant can meet this burden by showing the court exercised either general or specific personal jurisdiction. Id. at 452.

General jurisdiction may be obtained where the defendant's contacts with the forum state are "continuous and substantial," regardless of where the cause of action arose. Wilson v. Paradise Vill. Beach Resort & Spa, 395 N.J. Super. 520, 528 (App. Div. 2007) (quoting Charles Gendler & Co. v. Telecom Equip. Corp., 102 N.J. 460, 472 (1986)). "Specific jurisdiction is established when a defendant's acts within the forum-state give rise to the cause of action." Jacobs, 309 N.J. Super. at 452. In the context of specific jurisdiction, we consider "the relationship among the defendant, the forum, and the litigation." Blakey v. Cont'l Airlines. Inc., 164 N.J. 38, 67 (2000) (quoting Shaffer v. Heitner, 433 U.S. 186, 204 (1977)).

We need not resolve whether New York has general jurisdiction over defendant because it is clear New York has specific jurisdiction over him with respect to the dispute underlying the New York judgment. As noted, defendant has a medical license to practice in New York, which he allegedly provided to Grand Street as a requisite to Grand Street's operations in New York. He is also registered as an owner, director, or shareholder of Grand Street in New York public records and was apparently listed as an executive of Grand Street in multiple financial transactions for which he was a putative signatory. Grand Street's 2017 federal tax return also identifies defendant as the owner of 100% of the company's voting stock. Additionally, the underlying New York action addresses relief arising from guarantees that defendant allegedly signed, or ratified, on behalf of Grand Street in New York.

Defendant's alleged New York-based conduct was central to the New York claims, see McDonnell, 319 N.J. Super. at 333, and reflects a relationship between the parties and the forum, see Blakey, 164 N.J. at 67. Thus, as noted, even if defendant's contacts are insufficient to establish general jurisdiction, it is clear New York possesses specific personal jurisdiction over defendant in this matter.

Finally, to the extent defendant grounds his claims in Rule 4:50-1, we have previously held, in light of the full faith and credit clause, that this Rule applies only to judgments rendered in New Jersey. Sonntag Reporting Serv., Ltd., 374 N.J. Super. at 538-39; see also Pressler & Verniero, Current N.J. Court Rules, cmt. 1 on R. 4:50-1 (2023) ("This rule provides a mechanism for direct attack on a judgment or order entered by a court of this state. It does not provide a mechanism for collateral attack on a foreign judgment or order entitled to full faith and credit."). Rule 4:50-1 therefore does not provide a basis to grant defendant the relief he requested in the trial court.

III.

Defendant also argues enforcement of the domesticated judgment should be stayed pending the outcome of the New York action. Alternatively, defendant requests "[a]t the very least this Court should order subordination of that lien to a loan of \$300,000 Dr. Sklar obtained from a financial institution." Defendant relies upon N.J.S.A. 2A:49A-29, which provides in part:

if the judgment debtor shows the Superior Court that . . . a stay of execution [of the foreign judgment] has been granted, the court shall stay enforcement of the foreign judgment until . . . the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished security for the satisfaction of the judgment required by the state in which it was rendered.

[N.J.S.A. 2A:49A-29(a).]

Although the parties stipulated to stay enforcement of the domesticated judgment, defendant claims the judgment acts as a de facto lien on his property and is akin to enforcing the judgment against him as his personal and real property are encumbered as a result of the bond. "As a general matter, 'our courts normally will not entertain cases when a controversy no longer exists and the disputed issues have become moot.'" Int'l Bhd. of Elec. Workers Loc. 400 v. Borough of Tinton Falls, 468 N.J. Super. 214, 224 (App. Div. 2021) (quoting De Vesa v. Dorsey, 134 N.J. 420, 428 (1993)). "An issue is moot when 'the decision sought in a matter, when rendered, can have no practical effect on the existing controversy.'" Ibid. (quoting Redd v. Bowman, 223 N.J. 87, 104 (2015)).

We agree with Judge Padovano that the parties' stipulation renders this issue moot. Granting a stay of enforcement of the domesticated judgment would be redundant of the stipulation entered into by the parties and would thus have no practical effect on the existing controversy.

As to defendant's request that we order the bond be subordinated to an unrelated loan, we find such relief would improperly impair plaintiff's security interest. We have noted that the purpose of the UEFJA is to facilitate the

enforcement of foreign judgments and it "was not intended to alter any substantive rights of the parties in an action for enforcement of a foreign judgment." SeKap, S.A. Greek Co-op. Cigarette Mfg. Co., S.A., 392 N.J. Super. at 235 (quoting Sonntag Reporting Serv., Ltd., 374 N.J. Super. at 539). We have similarly held a provision of the UEFJA, N.J.S.A. 2A:49A-27, must not be interpreted as curtailing "the constitutional right of a judgment creditor to enforce[] . . . the judgment in a sister state, as guaranteed by the full faith and credit clause." Sonntag Reporting Serv., Ltd., 374 N.J. Super. at 539.

We are satisfied subordinating the bond would impermissibly impact plaintiff's substantive rights relative to the underlying New York action, and we decline to grant any relief that could potentially interfere with plaintiff's constitutional right to enforce its judgment. We further note defendant is not without recourse, as nothing in our opinion precludes the New York court, as appropriate, from subordinating the bond, should defendant seek such relief.

IV.

Finally, defendant requests we vacate the condition imposed by the New York court in its May 21, 2019 preliminary injunction requiring him to maintain a bond in order to stay enforcement of the judgments. Specifically, he asserts

"[e]nforcement of the [d]omesticated judgment should be stayed pending the outcome of the New York [l]itigation without requirement of any bond."

Preliminary injunctions are entitled to the same effect in sister states as are final judgments under the full faith and credit clause. See Baker, 522 U.S. at 223. We therefore agree with Judge Padovano that, in light of the full faith and credit clause, our courts lack authority under the present circumstances to alter or amend the preliminary injunction entered by the New York court.

To the extent we have not specifically addressed any of the parties' arguments, it is because we have concluded they lack sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(1)(E).

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.



CLERK OF THE APPELLATE DIVISION