

Personal Jurisdiction Unnecessary to Issue Judgment on an Out-of-State Judgment, New Published CA Case Holds

Tim Kowal December 06, 2022



There are some interesting new postjudgment opportunities suggested in the published case of [WV 23 Jumpstart, LLC v. Mynarcik \(D3 Nov. 21, 2022\) No. CO95046](#). The court holds that an out-of-state money judgment may be domesticated in California, even though California lacks personal jurisdiction over the defendant. And then the domesticated judgment may be re-domesticated back in the original forum. There are two reasons you should take strong notice of this case, particularly if other states follow this approach:

1. Judgments accrue interest at different rates depending on state law, so consider domesticating all your judgments in a high-yield jurisdiction—the highest yields are in Massachusetts, Rhode Island, Vermont, and Washington, at 12%.
2. Judgments lapse after a certain time depending on state law, so consider domesticating all your judgments in a “stay-fresh” jurisdiction—judgments in Delaware, for instance, never expire.

Here is what happened in *Jumpstart*:

In a Nevada lawsuit back in 2010, lenders won a \$1.5 million deficiency judgment against loan guarantors. Lenders then got the judgment domesticated in California pursuant to Code of Civil Procedure section 1710.10 et seq.

Nevada judgments expire after six years. In 2016, the Nevada judgment expired, and the lenders did not seek renewal. But the California judgment remained.

In 2020, the lenders assigned their judgment to Jumpstart, who renewed the California judgment. By this time, the judgment amount was over \$2.6 million, including postjudgment interest (interest presumably accrued under the California 10% rate).

But the Nevada-based defendant Mynarcik had no contacts in California. And no assets there, either. So Jumpstart wanted to enforce the judgment against Mynarcik in Nevada. But the Nevada judgment had been expired for several years already.

No problem: Although the Nevada judgment was expired, Jumpstart still had the domesticated judgment in California. So Jumpstart decided to take the domesticated California judgment and domesticate it right back to Nevada. A little like standing in a bucket and pulling yourself up by the handle, but worth a shot.

Mynarcik moved to quash and vacate the twice-domesticated judgment in Nevada. Mynarcik also raised a personal jurisdiction challenge to the California judgment. The Sacramento Superior Court agreed with Mynarcik that California lacked personal jurisdiction, and thus the domesticated judgment could not stand.

The Court of Appeal reversed, based on the Full Faith and Credit clause of the U.S. Constitution and California's Sister State Money Judgments Act. (Code Civ. Proc., §§ 1710.10 et seq.) The court acknowledged that neither of these, however, answered the question of whether lack of personal jurisdiction was a viable defense to domesticating a sister-state judgment. But the court reasoned that the Act was intended to create a straightforward judgment-enforcement mechanism "without judicial intervention." Allowing a defendant to argue that the court lacked personal jurisdiction, obviously, would require judicial intervention. So, the court reasoned, the Legislature must have meant to disallow jurisdiction challenges.

The court went on that, so long as the originating state had jurisdiction over the parties," the defendant received due process. "Thus, so long as the originating state had jurisdiction over the parties, the judgment was authorized, and the litigants were afforded due process, there is no basis to read an additional jurisdictional requirement into the Act based upon the ministerial act of registration."

The court concluded: "California's lack of personal jurisdiction over Mynarcik was not a viable defense to registering the Nevada judgment in California," and so reversed the trial court's order to the contrary.

Comment: There is a flaw here. The defendant's challenge was not that the forum court lacked jurisdiction to issue the *original* judgment. The challenge was to California's jurisdiction to enter a new judgment. The new judgment does more than reify the findings in the original judgment—which findings the defendant did not challenge. The new judgment in California carries a postjudgment interest rate greater than that of the original forum—and the greater rate was enacted by a forum lacking jurisdiction over the defendant. The new judgment in California also carries an expiration date a later than that of the original forum state—and that later expiration date was set by a forum that lacks jurisdiction over the defendant. And the new judgment in California comes armed with judgment-enforcement tools more expansive than that of the original forum (see [here](#) and [here](#))—and those powerful tools were enacted by a forum, again, that lacks jurisdiction over the defendant.

So when the court says that the domesticated California judgment “does not alter the judgment; it merely enables a creditor to collect on a preexisting judgment,” this is not so. The California probably accrues greater interest than the Nevada judgment (California rate: 10%; Nevada rate: contract or prime rate plus 2%). Nevada law provides judgment debtors certain corporate asset-protection devices not available in California. (See [here](#) and [here](#).)

Assuming the *Jumpstart* holding is correct and is followed by other jurisdictions, it suggests two concepts that judgment-creditors should consider employing as soon as they obtain a judgment:

- 1. Domesticate in a high-yield jurisdiction:** Judgments accrue interest at a rate established by state law. So you want your judgment to be issued in a state with the highest judgment-interest rate. “[W]hen a domestic judgment is obtained in California based upon a judgment in a sister state, the California judgment is entered for the amount unpaid under the sister state judgment, plus interest accrued computed at the rate of interest applicable to the judgment under sister state law. From time of entry of the judgment here, however, interest accrues at the rate applicable to a judgment entered in this state.” (*Sandrini Brothers v. Agricultural Labor Rel. Bd.* (1984) 156 Cal.App.3d 878, 889.) The states with the highest maximum post judgment interest rates are Massachusetts, Rhode Island, Vermont, and Washington, with each posting a 12% upper limit. New Jersey, meanwhile, allows the least amount of post-judgment interest accumulation with a 3.5% maximum rate. (Kauklin Ginsberg, “Post Judgment Interest: How Much Can Collectors Charge?” Cornerstone Support, Inc. (Sep. 17, 2019) available at <http://bit.ly/3V55pGo>.)
- 2. Domesticate the judgment in a “stay-fresh” jurisdiction:** If you have a judgment in a jurisdiction where judgments expire early (e.g., 3 years in D.C.; 4 in PA; 5 in AZ, KS, NB, OK, WY), consider domesticating the judgment in a stay-fresh jurisdiction (e.g., no expiration in DE; 21 years in OH; 20 in AL, CO, CT, FL, IL, IN, IA, ME, MA, NH, NJ, NY, RI, SD, VA, WI).

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