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Accrual of Time for Statute of Limitations Purposes on Foreign (Country) Money Judgments

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**ACCRUAL OF TIME FOR STATUTE OF LIMITATIONS
PURPOSES ON FOREIGN (COUNTRY) MONEY JUDGMENTS**

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I. INTRODUCTION

In 1994, the Florida legislature enacted its version of the Uniform Foreign Money-Judgments Recognition Act¹ (the "UFMJRA") in order to streamline procedures for recognizing and enforcing, in Florida, judgments rendered in a foreign country. Prior to enactment of the UFMJRA, judgment creditors wishing to enforce a foreign judgment in Florida were required to maintain a plenary action² on the judgment. The UFMJRA eliminated the need for such a procedure.³ However, application of the UFMJRA raises two concerns: (i) which statute of limitations⁴ is applicable; and (ii) at what point it should

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¹ FLA. STAT. § 55.601 (1998).

² "Plenary action" is defined as, "[a] complete and formal hearing or trial on the merits as distinguished from a summary hearing which is commonly less strict and more informal." BLACK'S LAW DICTIONARY 1154 (6th Ed. 1990). This process required a party to file a complaint in a Florida court to commence an action on the judgment. At this point the Florida court would enter a judgment of its own on the foreign judgment either enforcing it or not. *See e.g.*, Milligan v. Wilson, 107 So. 2d 773 (Fla. Dist. Ct. App. 1958).

³ The Uniform statute provides a more simple and smooth procedure for recognizing and enforcing a foreign judgment. *See* FLA. STAT. § 55.604 (1998); *see also*, Laager v. Kruger, 702 So. 2d 1362 (Fla. Dist. Ct. App. 1997) (Intent of the UFMJRA is to provide a speedy and certain framework for recognition of foreign judgments.). The process for recognizing and enforcing a judgment, under the Florida UFMJRA is as follows:

1. File judgment with clerk of court;
2. Upon filing, notice and opportunity to respond must be given to judgment debtor;
3. Then upon entry of order recognizing the foreign judgment, that judgment becomes enforceable as any other Florida judgment.

FLA. STAT. § 55.604 (1998).

⁴ This is a two part inquiry. First, whether the forum (i.e., "domesticating") jurisdiction's or the

begin to run,⁵ in order to correctly and justly apply the UFMJRA. This comment addresses the procedural⁶ nature of the UFMJRA and argues that Florida's Supreme Court should determine that: (i) Florida's statute of limitations applies to foreign judgment⁷ actions; (ii) and such statute begins to run once a foreign, rendering jurisdiction originally enters the judgment⁸.

Presently, there is only one case⁹ among the adopting jurisdictions¹⁰ reaching the issue considered in this comment. As such, case law under a similar uniform statute, the Uniform Enforcement of Foreign Judgments ("UEFJA")¹¹ is helpful and instructive. Jurisdictions adopting the UEFJA have reached issues parallel to the one considered by this comment within the context of the UFMJRA. Specifically, the courts have considered: (i) whether a proceeding under the UEFJA is to be considered an "action"; and (ii) from what point in time the applicable statute of limitations begins to run. These

rendering jurisdiction's statute of limitations applies. Second, assuming the statute of limitation of the forum applies, the inquiry becomes which statute of limitations, in particular, of the forum applies to a proceeding under the UFMJRA.

A pivotal and more narrow issue is whether a proceeding under the UFMJRA is defined as an action, or rather something wholly separate. Further, this statute of limitations issue which the article addresses is not which statute of limitations applies *after recognition* under the UFMJRA; rather the focus is upon the statute of limitations which should apply in deciding whether or not the foreign judgment should even be allowed *registration* in the forum state.

⁵ This question is of extreme importance especially in relation to a foreign country judgment trying to be recognized and enforced in a United States Court. For example, suppose that a foreign country has a statute of limitations on the judgment of thirty years; however, Florida has a five year statute of limitations for actions to be commenced upon a foreign judgment. In this stance, the question of when Florida's statute of limitations begins running becomes very important in analyzing whether the foreign country judgment is even able to be recognized, much less enforced, in Florida.

⁶ The broad issue is whether judgments rendered in a foreign country are barred from being recognized under the Florida UFMJRA unless filed in Florida prior to the expiration of Florida's five year statute of limitations on the bringing of actions on foreign judgments, notwithstanding that the judgments are enforceable in the rendering foreign country jurisdictions.

⁷ FLA. STAT. § 95.11(2)(a) (1998). It is important to note the difference, in the later discussions of the UEFJA, between FLA. STAT. § 95.11(2)(a) (1998) (which pertains to the limitation period upon bringing an action on a foreign judgment) and FLA. STAT. § 55.081 (1998) (which pertains to the 20 year limitation period on the "life" of a judgment; i.e., a judgment is good for only 20 years measured from the judgment's date of entry). Also, it should be noted, again for the UEFJA analysis, that FLA. STAT. § 95.11(1) provides a 20 year limitation period within which to bring an action upon a judgment rendered by a Florida court.

⁸ As a collateral matter, the statute could begin to run anew if the judgment is renewed (and not merely extended), such as to effectuate a new judgment, in the foreign country.

⁹ *Vrozos v. Sarantopoulos*, 552 N.E.2d 1093 (Ill. App. Ct. 1990).

¹⁰ There 30 adopting jurisdictions (including the District of Columbia and the Virgin Islands) which have substantially enacted the UFMJRA. For the list of jurisdictions, the effective dates of enactment, and their individual statutory citations, *see infra* Appendix A.

¹¹ The UEFJA governs the procedure for recognizing and enforcing judgments of sister states.

are the two principle issues likely to arise under the UFMJRA. Inasmuch as there is only one case from Florida which has reached the issues under the UEFJA,¹² (to be discussed in section V), Florida courts need guidance on how to rule on such issues arising under the UFMJRA. This comment attempts to offer, therefore, an analytical basis upon which sound yet-to-be-developed Florida case law may rest.

The Florida Supreme Court, in its analysis, should rely upon both the conclusion of the only court to have reached this issue under the UFMJRA¹³ as well as the relatively similar reasoning utilized by the various state courts which have considered the UEFJA. Also, by relying upon an opinion issued by Florida's First District Court of Appeal,¹⁴ the Florida Supreme Court should determine, in the end, that Florida's five-year statute of limitations on an action to enforce a foreign judgment:¹⁵ (i) applies to the application of the UFMJRA; and (ii) begins to run from the date of entry in the foreign country's court, regardless of the length of the foreign country's statute of limitations.

II. HISTORY: PRE-UFMJRA AND UEFJA

Prior to enactment of the UFMJRA, a party obtaining a judgment from a foreign country court and wishing to enforce such judgment in an American court, had to file a plenary action. As to the filing of the plenary action, it was Florida's five year statute of limitations on actions to enforce a judgment which applied in determining whether the plenary action could be commenced.¹⁶ The UFMJRA was drafted and enacted for the purpose of streamlining this procedure by eliminating the need for the filing of a plenary action. Whether a court of the United States would recognize and enforce a foreign country judgment was based upon principles of comity and reciprocity.¹⁷

The Supreme Court in *Hilton v. Guyot*¹⁸ pronounced the principle of comity and touched on the subject and meaning of reciprocity with respect to the recognition and enforcement of foreign judgments in the Courts of the United States. The Supreme Court stated,

¹² *Turner Murphy Co. v. Specialty Constructors, Inc.*, 659 So. 2d 1242 (Fla. Dist. Ct. App. 1995).

¹³ *See Vrozos*, 552 N.E.2d at 1093.

¹⁴ *See Turner Murphy Co. v. Specialty Constructors, Inc.*, 659 So. 2d 1242 (Fla. Dist. Ct. App. 1995).

¹⁵ *See* FLA. STAT. § 95.11(2)(a) (1998).

¹⁶ FLA. STAT. § 55.604 (1998).

¹⁷ *See Hilton v. Guyot*, 159 U.S. 113 (1895).

¹⁸ *Id.*

[t]he extent to which the law of one nation, as put in force within its territory, whether by executive order, by legislative act, or by judicial decree, shall be allowed to operate within the dominion of another nation, depends upon what our greatest jurists have been content to call 'the comity of nations.'¹⁹

'Comity,' in the legal sense, is neither a matter of absolute obligation, on the one hand, nor of mere courtesy and good will, upon the other. But it is the recognition which one nation allows within its territory to the legislative, executive, or judicial acts of another nation, having due regard both to international duty and convenience, and to the rights of its own citizens, or of other persons who are under the protection of its law.²⁰

The Court explained further that comity depended upon a number of circumstances, all of which are necessary considerations for each court before arriving at its decision.²¹ In discussing the concept of reciprocity, the Supreme Court explained that a judgment rendered in a foreign country sought to be enforced in the United States "... is allowed the same effect only as the courts of that [foreign] country allow to the judgments of the . . . [United States] . . ."²² What this means is that if a foreign country allows a judgment rendered in the United States to have the same effect as its own judgment would have, then the United States court will allow, as a matter of course, a judgment of that foreign country the same effect in the United States. Outside of this scenario, foreign judgments will be allowed, at most, no more of an effect than "...being prima facie evidence of the justice of the claim."²³ Reciprocity, by simple explanation, can be thought of as a type of *quid pro quo* analysis.

¹⁹ *Id.* at 163.

²⁰ *Id.* at 163-64 (emphasis added).

²¹ These circumstances are

... that no nation will suffer the laws of another to interfere with her own to the injury of her citizens; that whether they do or not must depend on, the condition of the country in which the foreign law is sought to be enforced, the particular nature of her legislation, her policy, and the character of her institutions; that in the conflict of laws it must often be matter of doubt which should prevail; and that, whenever a doubt does exist, the court which decides will prefer the laws of its own country to that of the stranger."

Id. at 164-65 (quoting Story, Confl. Laws, § 28; *Saul v. His Creditors* (1827) 5 Mart. (N.S.) 569, 596).

²² *Id.* at 168.

²³ *Id.*

Prior to the enactment of the UFMJRA, American courts determined the enforceability of a foreign country's judgment based primarily upon the principles of comity and reciprocity as espoused in *Hilton v. Guyot*.²⁴ Drafting considerations underlying and enactment of the UFMJRA rejected notions of comity and reciprocity in recognizing a foreign judgment, at least to the extent stressed in *Hilton*. Instead the UFMJRA would give a foreign judgment *res judicata* (conclusive) effect, entitling it to full faith and credit, just as a sister state judgment would receive. However, UFMJRA still prescribed that certain factors are required, and some discretionary, before recognition of a foreign judgment is allowed.²⁵ These requirements in § 4 of the UFMJRA generally pertain to due process and jurisdictional requirements. In the prefatory note to the UFMJRA, the purposes of codification and various policies supporting UFMJRA are described.²⁶

²⁴ See *Hilton*, 159 U.S. at 141-44.

²⁵ These factors are found in § 4 of the Uniform Act. It reads as follows:

§ 4 [Grounds for Non-recognition]

(a) A foreign judgment is not conclusive if

(1) the judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law;

(2) the foreign court did not have personal jurisdiction over the defendant; or

(3) the foreign court did not have jurisdiction over the subject matter

(b) A foreign judgment need not be recognized if

(1) the defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him to defend;

(2) the judgment was obtained by fraud;

(3) the [cause of action] [claim for relief] on which the judgment is based is repugnant to the public policy of this state;

(4) the judgment conflicts with another final and conclusive judgment;

(5) the proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court; or

(6) in the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action.

Uniform Foreign Money-Judgments Recognition Act § 4, 13 U.L.A. (1962) (emphasis added). Note that the first three factors (listed under § 4(a)(1)-(3)) are mandatory. If one of these factors is not met, then the foreign judgment can not be recognized as conclusive. The remaining six factors (listed under § 4(b)(1)-(6)) are discretionary. If one of these factors is not met, the court need not recognize the foreign judgment as conclusive, in its discretion.

²⁶ The Prefatory Note states as follows,

In most states of the Union, the law on recognition of judgments from foreign countries is not codified. In a large number of civil law countries, the grant of conclusive effect to money judgments from foreign courts is made dependent upon reciprocity. Judgments rendered in the United States have in many instances been refused recognition abroad because the foreign court was not satisfied that local judgments would be recognized in the American jurisdiction involved or because no certification of existence of reciprocity could be obtained from the

Even though the UFMJRA does not require the element of reciprocity, of the thirty adopting jurisdictions, eight jurisdictions still retain the language reflecting a reciprocity element. These jurisdictions include Colorado,²⁷ Florida,²⁸ Georgia,²⁹ Idaho,³⁰ Massachusetts,³¹ North Carolina,³² Ohio³³ and Texas.³⁴ Of these eight jurisdictions, Georgia and Massachusetts require the reciprocity elements.³⁵ That is, reciprocity must exist for a foreign judgment to be recognized; recognition is not discretionary. The remaining six jurisdictions, Colorado, Florida, Idaho, North Carolina, Ohio, and Texas grant courts discretion to consider reciprocity as a necessary factor in determining whether to recognize the foreign judgment.³⁶

The above basic background is necessary for understanding the reasoning and analysis that adopting jurisdictions' courts will necessarily undertake. The reciprocity principle can cause, and will most likely cause, more confusion in the application of the correct statute of limitations.³⁷ With

foreign government in countries where existence of reciprocity must be certified to the courts by the government. Codification by a state of its rules on the recognition of money-judgments rendered in a foreign court will make it more likely that judgments rendered in the state will be recognized abroad."

Uniform Foreign Money-Judgments Recognition Act § 4, 13 U.L.A. (1962).

²⁷ See COLO. REV. STAT. § 13-62-105 (1998)

²⁸ See FLA. STAT. § 55.605(2)(g) (1998) (it reads as, "[a] foreign judgment need not be recognized if...[t]he foreign jurisdiction where judgment was rendered would not give recognition to a similar judgment rendered in this state.").

²⁹ See GA. CODE ANN. § 9-12-114(10) (1998) (it reads, "[a] foreign judgment shall not be recognized if...[t]he party seeking to enforce the judgment fails to demonstrate that judgments of courts of the United States and of states thereof of the same type and based on substantially similar grounds are recognized and enforced in the courts of the foreign state.")

³⁰ See IDAHO CODE § 10-1405(b) (1998) (closing paragraph at end of subsection adds, "[j]udgments of this state are not recognized in the courts of the foreign state.")

³¹ See MASS. GEN. LAW. ch. 235, § 23A(b)(7) (1998) (it reads as, "[a] foreign judgment shall not be recognized if...judgments of this state are not recognized in the courts of the foreign state.")

³² See N.C. GEN. STAT. § 1C-1804(b)(7) (1998) (it reads as, "[a] foreign judgment need not be recognized if...[t]he foreign court rendering the judgment would not recognize a comparable judgment of this State.")

³³ See OHIO REV. CODE ANN. § 2329.92(B) (Anderson 1998)

³⁴ See TEX. CIV. PRAC. & REM. CODE ANN. § 36.005(b)(7) (West 1998) (it reads as, "[a] foreign country judgment need not be recognized if...it is established that the foreign country in which the judgment was rendered does not recognize judgments rendered in this state...")

³⁵ See *supra* notes 29 (Georgia) and 31 (Massachusetts).

³⁶ See *supra* notes 27 (Colo.), 28 (Florida), 30 (Idaho), 32 (North Carolina), 33 (Ohio), and 34 (Texas).

³⁷ The language referred to is "[t]his Act applies to any foreign judgment that is final and conclusive and enforceable where rendered even though an appeal therefrom is pending or it is subject to appeal. Uniform Foreign Money-Judgments Recognition Act § 2, 13 U.L.A. (1992) (emphasis added). The reason confusion can be created is due to the emphasized language when combined with the fact that

respect to Florida, a central question arises and constitutes the focus of this comment: at what point does the applicable Florida statute of limitations begin to run? Two possible responses exist: (i) upon recognition of the foreign judgment in Florida, under the UFMJRA; or (ii) at the point at which the foreign country rendered the judgment. This comment forwards an argument as to how the Florida Supreme Court should rule.

III. FLORIDA'S ENACTMENT OF THE UFMJRA

The Florida legislature substantially enacted, with modifications, the UFMJRA.³⁸ The relevant statutory provision which generates the applicable statute of limitations conflict states

[t]his act applies to any foreign judgment that is final and conclusive and *enforceable where rendered*, even though an appeal therefrom is pending or is subject to appeal.³⁹

The phrase "enforceable where rendered" is a source of considerable confusion. On the one hand, this phrase may imply the Florida legislature intended a judgment enforceable in a foreign country, under that country's own statute of limitations, should still be recognized in Florida, regardless of Florida's statute of limitations. Also, the phrase arguably supports the argument that this is the case especially in a situation where reciprocity exists between Florida courts and that of the foreign country. This is so where Florida's version of the UFMJRA leaves the factor of reciprocity to the discretion of the court for recognition.⁴⁰ However, in Florida, the statute of limitations for an action⁴¹ on a foreign judgment is five years.⁴² At bottom, the

there is not a provision in the Uniform Act for an applicable statute of limitation. This will be explained more fully in Section III of this comment.

³⁸ FLA. STAT. §§ 55.601-55.607 (1998)

³⁹ FLA. STAT. § 55.603 (1998) (emphasis added)

⁴⁰ See FLA. STAT. § 55.605(2)(g) (1998). See *infra* Appendix B.

⁴¹ The word "action" as used in the statutory language includes both a civil action or proceeding. See FLA. STAT. § 95.011 (1998).

⁴² FLA. STAT. § 95.011 (1998). The statute states as follows,

Actions other than for recovery of real property shall be commenced as follows:

...

(2) Within five years.—

An action on a judgment or decree of any court, not of record, of this state or any court of the United States, any other state or territory in the United States, or a foreign country...

Id. (emphasis added).

phrase's implications cannot be asserted in good faith by a litigant or by the court itself.

Realization of the legislative intention underlying the five year statute of limitations which speaks specifically to actions upon foreign judgments is uncertain if such implication were allowed. Arguably, the UFMJRA, in effect, repealed the five year statute of limitations in favor of a rendering foreign country's own limitations. Such a repeal necessarily is implied because the UFMJRA does not specifically address what statute of limitations applies.⁴³ However, the Florida Supreme Court has addressed the issue of a statute impliedly repealing another by stating that, "[i]mplied repeals of statutes are abhorred, and statutes governing the same subject matter are to be given harmonizing construction."⁴⁴

Upon reading the statutory language⁴⁵ in conjunction with the UFMJRA, it should be beyond reasonable dispute that the applicable statute of limitations for the length of time in which a foreign judgment may be recognized and enforced in Florida, is governed by Florida's five year statute of limitations. Any argument, referred to above, that the language "enforceable where rendered" in the UFMJRA impliedly repeals, or overrules, the applicability of Florida's five year limitations statute, should be dismissed. This is so because such a result is mandated by the well-established rules of statutory construction. First, the most important factor in construing a statute is the legislature's intent, is ascertained from the statute's plain language.⁴⁶ If the intent is clear from the language used, the court has the absolute duty to give effect to that intent; the court may not redefine the legislature's words.⁴⁷ Only if there is ambiguity may the court turn to rules of construction to a statute.⁴⁸ It is further presumed that the legislature knows the meanings of the words it has chosen to use in conveying its intent.⁴⁹ Moreover, where the legislature has chosen to define a term, that definition controls over all others.⁵⁰

⁴³ Compare the 1962 Uniform Act (as enacted by Florida in 1994 and as amended by 1995, Fla. Laws, ch.147) which leaves no limitations provision, with the 1948 Uniform Act which did have a limitations provision. The 1948 Uniform Act's limitations provision is shown, *infra*, in note 91 of this comment.

⁴⁴ *Ellis v. City of Winter Haven*, 60 So. 2d 620, 623 (Fla. 1952); *See also Palm Harbor Special Fire Control District v. Kelly*, 516 So. 2d 249 (Fla. 1987).

⁴⁵ FLA. STAT. § 95.11(2)(a) (1998).

⁴⁶ *See City of Boca Raton v. Gidman*, 440 So. 2d 1277 (Fla. 1983)

⁴⁷ *See Englewood Water District v. Tate*, 334 So. 2d 626 (Fla. Dist. Ct. App. 1976).

⁴⁸ *See Wagner v. Botts*, 88 So. 2d 611 (Fla. 1956).

⁴⁹ *See King v. Ellison*, 648 So. 2d 666 (Fla. 1994).

⁵⁰ *See First National Bank v. Florida Industrial Com.*, 16 So. 2d 636 (Fla. 1944).

Where construction is necessary, the courts should avoid a construction which would place different statutes covering the same general field in conflict.⁵¹ Rather, where a more recent statute relates to matters covered in whole, or in part, by a prior statute, the two should be harmonized so that each statute will be given its intended effect.⁵² Only where the legislature has said, in clear and unambiguous terms, that a statute will no longer apply can a court fail to give it effect.⁵³

Therefore, since the Florida legislature has specifically intended that the statute of limitations for actions⁵⁴ on foreign judgments to be five years⁵⁵ rather than the statute of limitations that is “enforceable where rendered” in the foreign country; i.e., it should be Florida’s five year statute of limitations which applies rather than the foreign country’s. Any other conclusion would render the Florida five year statute of limitations superfluous, and this is strictly forbidden.⁵⁶

Yet another issue has troubled a minority⁵⁷ of the adopting jurisdictions’ courts. It involves a question of whether a *proceeding* under the Uniform Act is an “*action*” within the definition of the statute of limitations. Moreover the question exists of whether the UFMJRA, through comparative analysis of the UEFJA, creates a “new type of action” outside the scope of the five year limitation. This issue should be of no consequence for Florida, since the Florida Statutes provide that a *civil action or proceeding* is referred to as simply an “*action*.” The relevant provision reads as follows:

95.011 Applicability.—

A civil action *or proceeding*,⁵⁸ called “*action*” in this chapter, . . . shall be barred unless begun within the time prescribed in this chapter or,

⁵¹ See *Ellis v. City of Winter Haven*, 60 So. 2d 620 (Fla. 1952)

⁵² *Id.*

⁵³ See *Woodgate Development Corporation v. Hamilton Investment Trust*, 351 So. 2d 14 (Fla. 1977)

⁵⁴ FLA. STAT. § 95.011 (1998).

⁵⁵ *Id.*

⁵⁶ See *Johnson v. Feder*, 458 So. 2d 409, 411 (Fla. 1986) (Interpretations that render statutory provisions superfluous are to be avoided and courts may not presume that a statute employs useless or superfluous language)

⁵⁷ Colorado, Oklahoma, and Wyoming, and Georgia. See discussion *infra* Part V.

⁵⁸ The minority jurisdictions under the UEFJA stress the difference between a civil action and a proceeding under the UEFJA. However, under Florida law, there is no difference, by this statutory definition.

if a different time is prescribed elsewhere in these statutes, within the time prescribed elsewhere.⁵⁹

The rules of statutory construction, as explained above, prohibits this issue from being of any relevance at all in Florida, since the legislature quite simply has already spoken on the subject.

Having addressed the issue of which statute of limitations should apply, a narrower question enters the playing field. The question is *when* the statute of limitations should *begin to run*. More specifically, the questions envisions two resolutions: (i) the five year limitation begins to run at the date upon which the foreign judgment was rendered; or (ii) upon the date of registering the judgment in Florida under the UFMJRA. A choice between these two resolution appears to be simple, but it is not. Of the thirty jurisdictions that have adopted their version of the UFMJRA, only one jurisdiction⁶⁰ has reached this exact issue.⁶¹ Since there is so little authority on this issue under the UFMJRA, an analysis of the same issue under a similar uniform act, the UEFJA,⁶² will be examined. However, before analysis under the UEFJA, two decisions under the UFMJRA warrant discussion.

IV. RELEVANT DECISIONS UNDER THE UFMJRA

The Illinois courts first reached a decision on the issue in 1990. In the case *Vrozos v. Sarantopoulos*,⁶³ the Court held that the general, Illinois five year statute of limitations applied to a Canadian judgment for which enforcement was being sought in Illinois under the UFMJRA.⁶⁴ The Court considered whether a proceeding under the Uniform Act was barred by a statute of limitations that applied to an action to commence registration which was civil in nature. After noting that the Uniform Act did not contain a limitations provision of its own, the court held that Illinois' general statute of limitations applied. Since no proof of the effect of the Canadian judgment

⁵⁹ FLA. STAT. § 95.011 (1998) (footnotes added) (emphasis added).

⁶⁰ *Vrozos v. Sarantopoulos*, 552 N.E.2d 1093 (Ill. App. Ct. 1990); *La Societe Anonyme Goro v. Conveyor Accessories, Inc.*, 677 N.E.2d 30 (Ill. App. Ct. 1997).

⁶¹ The issue is when should the forum country's statute of limitations begin to apply, upon rendering the judgment in the foreign country, or upon filing the foreign judgment in the forum country. In either event, regardless of whether the foreign judgment may still be enforceable under that country's statute of limitations.

⁶² This Uniform Act applies to the recognition and enforcement of judgments between the sister states. The recognition and enforcement of a foreign state's judgment in its sister state is based upon the principle of full faith and credit. See FLA. STAT. § 55.502(1) (1998).

⁶³ *Vrozos v. Sarantopoulos*, 552 N.E.2d 1093 (Ill. App. Ct. 1990).

⁶⁴ *Id.* at 1098.

was offered, the court could not determine whether in fact the original Canadian judgment was revived⁶⁵ five years after the original judgment was issued. The Court continued by stating that if the writ were actually a revival, creating in effect a new judgment, then the action would not have been barred because it would have been timely filed under the Illinois statute of limitations.⁶⁶ In any event, it was apparent the Court, in applying the Illinois statute of limitations, decided the statute began to run from the date of the entry of the judgment in Canada (and upon proof of revival in Canada of the Canadian judgment, from the date of the revival).⁶⁷

Later in 1997, an appellate court of Illinois in *La Societe Anonyme Goro v. Conveyor Accessories, Inc.*⁶⁸ held that the statute of limitations which was applied under the UEFJA also applied to actions filed under the UFMJRA.⁶⁹ There, the plaintiffs sought to enforce, in the Illinois court, a judgment obtained in France.⁷⁰ Here, the court hassled only with which Illinois statute of limitations should apply; the five year or the seven year limitations period. The importance of this decision lies in the fact that the Court held that the same analysis for the limitations period under the UEFJA also applies to cases under the UFMJRA.⁷¹

V. FLORIDA'S UEFJA AND THE RELEVANT DECISIONS UNDER UEFJA

The apparent dearth of authority discussing the statute of limitations issue under the UFMJRA would leave a Florida court with very little persuasive authority to analyze the same issue in its own courts. However, the more developed case law under the similar UEFJA provides a more comprehensive influential base upon which a Florida Court could rely. Forty-eight jurisdictions⁷² have substantially enacted the UEFJA.⁷³

⁶⁵ The question was whether the Canadian judgment was renewed, or revived, in Canada by the issuance of a writ. If the judgment were renewed or revived, and not merely an extension of the old judgment, then under Illinois law, the Illinois statute would have begun to run at the entry of the revived judgment. *Id.* at 1098-1100.

⁶⁶ *Id.*

⁶⁷ *Id.* at 1098-99.

⁶⁸ *La Societe Anonyme Goro v. Conveyor Accessories, Inc.*, 677 N.E.2d 30 (Ill. App. Ct. 1997).

⁶⁹ *Id.* at 33. The court in arriving at its holding noted that the "...[Uniform Enforcement of] Foreign Judgments Act and the [Uniform Foreign Money-Judgments] Recognition Act are to be interpreted to complement each other rather than to be mutually exclusive and that they are enforceable in the same manner." *Id.* at 33 (citations omitted). This is a concept which the Florida Courts should embrace and incorporate into their own opinions.

⁷⁰ *Id.* at 31.

⁷¹ *La Societe Anonyme Goro*, 677 N.E.2d at 30.

⁷² Including the District of Columbia and the Virgin Islands.

⁷³ Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, District of Columbia,

The Florida legislature enacted its version of the UEFJA in 1984.⁷⁴ The purpose behind the UEFJA, as originally drafted, was to promote efficiency. As described in the introduction, prior to the enactment of the UEFJA, one holding a judgment rendered in one state seeking to enforce that judgment in another sister state, had to file a plenary action. The UEFJA provided a more efficient method of recognition and enforcement⁷⁵ by prescribing that the judgments of sister states are entitled to full faith and credit in the courts of other states.⁷⁶ The Act was designed to promote efficiency of judgments⁷⁷ predicated upon the "full faith and credit" clause of the U.S. Constitution.⁷⁸ In applying these policies that the UEFJA was designed to promote, both federal courts and the majority of state courts have reached relatively similar decisions. These decisions provide persuasive authority for a Florida court faced with a statute of limitations issue under the UFMJRA.

Federal courts, applying state substantive law,⁷⁹ have addressed the statute of limitations issue under the UEFJA. In *Matanuska Valley Lines, Inc. v. Molitor*,⁸⁰ a judgment creditor sought to enforce a foreign judgment that was still enforceable in the originating jurisdiction, but after the expiration of the limitations period for actions on a foreign judgment in the domesticating jurisdiction.⁸¹ The court first observed that "[i]t has long been established that the enforcement of a judgment of a sister state may be barred by application of the statute of limitations of the forum state."⁸² The Court ended up by holding that the Alaska judgment (originating jurisdiction) was not

Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virgin Islands, Virginia, Washington, West Virginia, Wisconsin, Wyoming.

⁷⁴ See FLA. STAT. §§ 55.501-55.509 (1998)

⁷⁵ Though, it did not eliminate the ability to file a plenary action under the common law.

⁷⁶ See Prefatory Note, Uniform Enforcement of Foreign Judgments Act, 13 U.L.A..

⁷⁷ *Id.*

⁷⁸ U.S. CONST., art. IV, § 4, reads as follows:

Full Faith and Credit shall be given in each State to the public Acts, Records and Judicial Proceedings of every other State. And the Congress may by general laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved and the effect thereof.

This provision, by virtue of the reach of the 14th Amendment, requires the state courts to honor judgments from other sister states without reexamining the merits of the claims.

⁷⁹ See *Erie v. Tompkins*, 304 U.S. 64 (1938)

⁸⁰ 365 F.2d 358 (9th Cir. 1966).

⁸¹ The term "domesticating jurisdiction" is also referred to as the "forum state" within this comment.

⁸² *Matanuska Valley Lines, Inc.*, 365 F.2d at 359-60 (The question presented was whether the Alaska judgment was registerable in Washington, in light of the Washington statute of limitations).

registerable in Washington (domesticating/forum jurisdiction) because the applicable Washington statute of limitations had run, as measured from the date of entry of the Alaskan judgment.⁸³

In a similar case, *Powles v. Kandrasiwicz*,⁸⁴ the court considered a "revival" of a judgment in the originating state and whether or not such revival constituted a new judgment for registration purposes. The Court held that the "revival" did not create a new judgment for statute of limitations purposes because the registration state's statute of limitations had run.⁸⁵

There is also numerous authority on this issue, under the UEFJA, from the state courts. However, there is only one jurisdiction, Nevada, holding that the forum state's statute of limitations does not begin to run until the registration is accomplished. The other four minority jurisdictions, Colorado, Georgia, Oklahoma, and Wyoming have differentiated their decisions by claiming that the UEFJA created a new proceeding which is not an action and therefore, the statute of limitations does not apply to proceedings under the UEFJA. It is the premise of this article, that such reasoning, analysis, and conclusion makes no logical, nor legal sense, especially with respect to Florida law. To more fully understand the issues and decisions of these minority jurisdictions, they will be discussed in the following paragraphs.

There are four minority jurisdictions⁸⁶ holding that the UEFJA created a new kind of "proceeding" that was not an "action" subject to being barred by the domesticating jurisdiction's statute of limitations.⁸⁷ In *Producer's Grain*,⁸⁸ the Court places great emphasis on the difference between an "action" and a "proceeding" due to the language⁸⁹ within the UEFJA itself. In placing such

⁸³ *Id.* at 360.

⁸⁴ *Powles v. Kandrasiwicz*, 886 F. Supp. 1261 (W.D.N.C. 1995).

⁸⁵ *Id.* at 1265-66.

⁸⁶ Colorado, Georgia, Oklahoma, and Wyoming.

⁸⁷ *See Producer's Grain Corporation v. J.D. Carroll*, 546 P.2d 285 (Okla. Ct. App. 1976); *See also*, *Hunter Technologies, Inc. v. Scott*, 701 P.2d 645 (Colo. Ct. App. 1985); *See also*, *Hill v. Value Recovery Group, L.P.*, 964 P.2d 1256 (Wyo. 1998) (Court solely considered whether a proceeding under the UEFJA is a "civil action" within the meaning of the Wyoming statute of limitation. Court held that a proceeding under the UEFJA is not a civil action and thus the Wyoming statute of limitation does not apply); *See also*, *Wright v. Trust Co. Bank*, 466 S.E.2d 74 (Ga. Ct. App. 1995) (Court held that Georgia statute of limitations did not apply to Alabama judgment sought to be enforced under the UEFJA because the UEFJA is merely a continuation of the old judgment, not a new action).

⁸⁸ *Producer's Grain Corp.*, 546 P.2d at 285. *But see*, *Drilevich Construction, Inc. v. Stock*, 958 P.2d 1277, 1281 (Okla. 1998) (holding that for purposes of filing the foreign judgment in Oklahoma, Oklahoma's five year dormancy statute of limitations applies to the filing and registration. Once filed, then the new statute of limitations applies to the enforcement period of time for the judgment).

⁸⁹ The language is as follows:

The right of a judgment creditor to bring an action to enforce his judgment instead of proceeding under this act remains unimpaired. *Producer's Grain Corp.*, 546 P.2d at 287-88.

an emphasis, the Court notes that the Revised Uniform Act of 1964 omitted any reference to a limitations period,⁹⁰ which was there in the 1948 version.⁹¹ From this, the Court concluded that the statute of limitations did not apply to a proceeding under the UEFJA, since the Oklahoma statute of limitations refers to an "action."⁹² However, as mentioned previously, this type of reasoning has no place in application to Florida law. Florida's statutory scheme (under § 95.011) specifically defines "action," as used in the statute of limitations, as including a civil action and a proceeding. Therefore, the distinction made by the minority jurisdictions is of no consequence to Florida courts. Further, the majority of jurisdictions which have reached the issue⁹³ have concluded that under the UEFJA a distinction between an action and a proceeding is of no relevance. Moreover, these jurisdictions have held that their state's (domesticating jurisdiction) statute of limitations begin to run upon the rendering jurisdiction entering⁹⁴ judgment.⁹⁵

⁹⁰ *Id.* at 288

⁹¹ The relevant 1948 version stated as follows:

On application made within the time allowed for bringing an action on a foreign judgment in this state, any person entitled to bring such action may have a foreign judgment registered in any court of this state having jurisdiction of such an action.

Id. at 288.

⁹² *Id.*; accord *Hunter Technology v. Scott*, 701 P.2d 645 (Colo. Ct. App. 1985).

⁹³ The majority consists of the following states: Missouri, Idaho, Arizona, Pennsylvania, Texas, Florida, Tennessee, Mississippi, Kansas, and North Dakota, Ohio and Kentucky. For the holdings from these jurisdictions, see *infra* note 95.

⁹⁴ "Entering," means "filing of record."

⁹⁵ The following cases form the majority: Arizona: *Citibank (South Dakota), N.A. v. Phifer*, 887 P.2d 5 (Ariz. Ct. App. 1994) (Arizona's statute of limitations on foreign judgments applies; no logical reason for giving holder of foreign judgment more time to enforce judgment if he chooses to file under UEFJA instead of common law) (citing *Echenhagen v. Zika*, 696 P.2d 1362 (Ariz. Ct. App. 1985); *Eschenhagen v. Zika*, 696 P.2d 1362 (Ariz. Ct. App. 1985) (holding that Arizona will apply its own statute of limitations and nothing in the UEFJA precludes Arizona from so doing); Florida: *Turner Murphy v. Specialty Constructors, Inc.*, 659 So. 2d 1242 (Fla. Dist. Ct. App. 1995) (Court applying Florida's five year statute of limitations for an action to enforce a foreign judgment to the filing of a South Carolina judgment under the UEFJA); Idaho: *G&R Petroleum, Inc. v. Clements*, 898 P.2d 50 (Idaho 1995) (holding that it is logical that same six year period of limitations apply whether filed under UEFJA or as plenary action at common law; finally, renewed Oregon judgment barred because mere extension and time for registration had run, which began from date of original judgment in Oregon.); Kansas: *Alexander Construction Company v. Weaver*, 594 P.2d 248, 251 (Kan. Ct. App. 1979) (holding that foreign judgments, although valid in the state of rendition, are nevertheless subject to the Kansas statute of limitations for the filing of foreign judgments); Kentucky: *Fairbanks v. Large*, 957 S.W.2d 307 (Ky. Ct. App. 1997) (18 year old judgment obtained in Florida and sought to be enforced in Kentucky under the UEFJA barred by Kentucky's 15 year statute of limitations, even though judgment was still valid and enforceable under Florida's 20 year statute of limitations); Mississippi: *Davis v. Davis*, 558 So. 2d 814 (Miss. 1990) (foreign judgments registered pursuant to the UEFJA are subject to Mississippi's seven year statute of limitations, measured from the time of rendition in the originating jurisdiction); Missouri: *Ritterbusch v. New London*

Nevada is the only jurisdiction which has held squarely that although their general statute of limitations applies to a UEFJA proceeding, such limitations period does not begin to run until the foreign judgment is filed in the registration state.⁹⁶ The court here recognized that this issue was one of first impression in Nevada, and that it had five options as to when Nevada's six-year statute of limitations period starts to run. As options, the court noted that the period could run from,

...(1) the date of entry of the original foreign judgment, (2) the date of renewal of the foreign judgment in the rendering state, (3) the date the judgment debtor becomes a resident of Nevada, (4) the date on which the judgment creditor receives actual or constructive notice that the judgment debtor has become a resident of Nevada, or (5) the date on which a valid foreign judgment is registered in Nevada.⁹⁷

The Court decided to follow fifth option that the statute began to run on the date which a valid foreign judgment is registered in Nevada.⁹⁸ The Court bypassed option number one which should be the correct point at which the statute of limitations should apply. It is the only one which makes any common sense. Why? If a court were to follow the reasoning and conclusion under *Trubenbach* then the commencement of an action to enforce a judgment under the UEFJA starts the running of the statutory period in which the action

Oil Company, Inc., 927 S.W.2d 873 (Mo. Ct. App. 1996) (registration of Pennsylvania judgment under UEFJA not time barred because commenced within Missouri's 10 year statute of limitations of Missouri); North Dakota: Yusten v. Monson, 325 N.W.2d 285 (N.D. 1982) (Registerability of foreign judgment under UEFJA governed by North Dakota's ten-year statute); Ohio: Rion v. Mom and Dad's Equip. Sales and Rentals, Inc., 687 N.E.2d 116 (Ohio. Ct. App. 1996) (Court applied Ohio statute of limitations to Florida judgment sought to be enforced in Ohio under the UEFJA. Ohio's statute of limitation barred filing, even though judgment was still valid and enforceable under Florida's 20 year statute of limitation. Therefore, since the Florida judgment was brought to Ohio beyond the Ohio limitation period, enforcement is barred). Pennsylvania: National Union Fire Insurance of Pittsburgh, Pennsylvania v. Nicholas, 651 A.2d 1111, 1115 (Pa. Super. Ct. 1994) (holding that the long standing rule in Pennsylvania is that the law of the forum determines the time within which a cause of action shall be commenced; Tennessee: First National Bank of Okaloosa County v. Bay, No. 02A01-9304-CH-00097, WL85966, at *1 (Tenn. Ct. App. 1994) (Florida judgment could not be enforced under UEFJA because proceeding was not commenced within Tennessee's ten year limitations period); Texas: Lawrence Systems, Inc. v. Superior Feeders, Inc., 880 S.W.2d 203 (Tex. App. 1994) (finding that the Texas statute of limitations of enforcement of foreign judgments applies rather than Oklahoma's and that such statute applies equally to proceedings to UEFJA and common law proceedings to enforce foreign judgments).

⁹⁶ See *Trubenbach v. Amstadter*, 849 P.2d 288, 289 (Nev. 1993).

⁹⁷ *Id.*

⁹⁸ *Id.*

must be commenced: that is, the same act that starts the limitations period also ends it. This makes absolutely no sense.

Finally, there is one Florida court that has reached the statute of limitations issue under the UEFJA. In *Turner Murphy v. Specialty Constructors, Inc.*⁹⁹ the Court made clear in its holding that the Florida statute of limitations applied to a judgment rendered in South Carolina, for which enforcement was being sought in Florida.¹⁰⁰ Furthermore, the Court held that the Florida statute of limitations began to run upon the entry of judgment in South Carolina (the originating jurisdiction).¹⁰¹ Since this is the only Florida case of a District Court of Appeal that has reached this issue, unless and until another Florida District Court, or preferably the Florida Supreme Court rules on this issue, the *Turner Murphy* decision controls.¹⁰² Even so, another Florida district court, if ever faced with the statute of limitations issue, might still look to other authority beyond *Turner Murphy* in an effort to make sure that *Turner Murphy* was the correct decision to follow.

Of the three potentially "problem cases" out there, it must be remembered that *Trubenbach*,¹⁰³ unlike *Producer's Grain*¹⁰⁴ and *Hunter Technology*,¹⁰⁵ holds that the statute of limitations does apply to proceedings under the UEFJA, in that such proceedings are not "civil actions." *Trubenbach*¹⁰⁶ differs from and holds contrary to *Turner Murphy*¹⁰⁷ by holding that the statute does not begin to run until the foreign judgment is filed in Nevada (the domesticating or forum jurisdiction).

VI. CONCLUSION

If there is a party trying to enforce a judgment, under the UFMJRA in a Florida court, which was rendered in a foreign country, should Florida's applicable statute of limitations¹⁰⁸ begin to run upon the date which the judgment was rendered or upon the date of registration in Florida? Well, the

⁹⁹ *Turner Murphy Company v. Specialty Constructors, Inc.*, 659 So. 2d 1242 (Fla. Dist. Ct. App. 1995).

¹⁰⁰ *Id.* at 1244.

¹⁰¹ *Id.* at 1246.

¹⁰² *See Stanfill v. State*, 384 So. 2d 141, 143 (Fla. 1980) (decision of one Florida district court of appeals controls unless and until overruled by Florida Supreme Court or District Court of Appeals in a trial court's district).

¹⁰³ *Powles v. Kandasiewicz*, 886 F. Supp. 1261 (W.D.N.C. 1995).

¹⁰⁴ *See supra* note 89.

¹⁰⁵ *See Hunter Technology*, 701 P.2d at 645.

¹⁰⁶ *See Trubenbach*, 849 P.2d at 288.

¹⁰⁷ *Turner Murphy Company*, 659 So. 2d at 1242.

¹⁰⁸ *See* FLA. STAT. § 95.11(2)(a) (1998).

available case law decided under the UFMJRA seems to be of the view that the forum state's statute of limitations should begin to run upon the rendering of the judgment in the foreign country.¹⁰⁹

Further a majority of jurisdictions, ruling under the similar statute, the UEFJA, have also held that the forum state's statute of limitations begins to run upon the entry of judgment in the sister state.¹¹⁰ Additionally, it is this comment's contention that the decisions, under the UEFJA, addressing the statute of limitations issue, should be treated with deliberate deference by the Florida courts in making a similar determination under the UFMJRA. In fact, in *La Societe*,¹¹¹ the Illinois court held that the same statute of limitations that applies for proceedings under the UEFJA, should also apply to cases under the UFMJRA.¹¹²

Additionally, such a conclusion is the only conclusion which a Florida court could come to that makes sense and comports with the specific statutory language and intent of the Florida legislature. This becomes apparent as one reads Florida's enactment of the UFMJRA, which specifically contains no limitations provision, in conjunction with FLA.STAT. §95.11(2)(a) which provides specifically for a limitations period of five years on actions on foreign judgments.

In sum, considering the construction of the Florida statute of limitations for actions on a foreign judgment¹¹³ which additionally by statute includes a "proceeding"¹¹⁴ under the Florida UFMJRA, in conjunction with the case law that has developed under the similar Uniform Act, the UEFJA, the Florida Supreme Court and the Florida District Courts of Appeals should rule, that the Florida five year statute of limitations should apply to actions on foreign country money judgments sought to be enforced in Florida under the UFMJRA. Most importantly, the Florida courts should rule that this five year limitations statute runs upon the rendering of the judgment by the foreign country court or tribunal.

¹⁰⁹ *Vrozos v. Sarantopoulos*, 552 N.E.2d 1093 (Ill. App. Ct.1990).

¹¹⁰ *See supra* note 95.

¹¹¹ *La Societe Anonyme Goro v. Conveyor Accessories, Inc.*, 677 N.E.2d 30 (Ill. App. Ct. 1997).

¹¹² *Id.*

¹¹³ *See* FLA. STAT. § 95.11(2)(a) (1998).

¹¹⁴ FLA. STAT. § 95.011 (1998).

APPENDIX A

**UNIFORM FOREIGN MONEY-JUDGMENTS RECOGNITION ACT
TABLE OF JURISDICTIONS WHEREIN ACT HAS BEEN ADOPTED**

JURISDICTION	LAWS	EFFECTIVE DATE	STATUTORY CITATION
ALASKA	1972, c. 68	8-16-1972	AS 09.30.100 to 09.30.180.
CALIFORNIA	1967, c. 503	11-8-1967	Cal.C.C.P. §§ 1713 to 1713.8
COLORADO	1977, c. 197	7-1-1977	C.R.S.A. §§ 13-62-101 to 13-62-109
CONNECTICUT	1988, P.L. 88-39	4-13-1988	C.G.S.A. §§ 50a-30 to 50a-38.
DELAWARE	1997, c. 145	7-3-1997	10 Del.C. §§ 4801 to 4808.
DISTRICT OF COLUMBIA	1995, D.C.Act 11-163	2-10-1996	D.C.Code 1981 §§ 15-381 to 15-388.
FLORIDA	1994, c. 94-239	10-1-1994	F.S.A. §§ 55.601 to 55.607
GEORGIA	1975, pp. 479-82		O.C.G.A. §§ 9-12-110 to 9-12-117
HAWAII	1996, Act 49	4-24-1996	HRS §§ 658C-1 to 658C-9
IDAHO	1990, c. 408		I.C. §§ 10-1401 to 10-1409.
ILLINOIS	1963, p. 1506	7-15-1963	S.H.A. 735 ILCS 5/12-618 to 5/12-626.
IOWA	1989, S.F. 111	5-18-1989	I.C.A. §§ 626B.1 to 626B.8.
MARYLAND	1963, c. 201	6-1-1963	Code, Courts and Judicial Proceedings, §§ 10-701 to 10-709.
MASSACHUSETTS	1966, c. 638	9-3-1966	M.G.L.A. c. 235, § 23A.
MICHIGAN	1967, No. 191	11-2-1967	M.C.L.A. §§ 691.1151 to 691.1159
MINNESOTA	1985, c. 218	5-23-1985	M.S.A. § 548.35.

MISSOURI	1984, H.B. 957	6-21-1984	V.A.M.S. §§ 511.770 to 511.787.
MONTANA	1993, c. 441	10-1-1993	MCA §§ 25-9-601 to 25-9-609
NEW JERSEY	1997, c. 96	5-8-1997	N.J.S.A. 2A:49A-16 to 2A:49A-24
NEW MEXICO	1991, c. 180	7-1-1991	NMSA 1978, §§ 39-4B- to 39-4B-9
NEW YORK	1970, c. 981	9-1-1970	McKinney's CPLR 5301 to 5309
NORTH CAROLINA	1993, c. 188	10-1-1993	G.S. §§ 1C-1800 to 1C-1808
OHIO	1985, SB 19		R.C. §§ 2329.90 to 2329.94
OKLAHOMA	1965, c. 448	6-30-1965	12 Okl.St. Ann. §§ 710 to 718
OREGON	1977, c. 61	10-4-1977	ORS 24.200 to 24.255
PENNSYLVANIA L.	1990, Act 139	11-21-1990	42 P.S. §§ 22001 to 22009
TEXAS	1981, c. 808	6-17-1981	V.T.C.A., Civil Practice and Remedies Code §§ 36.001 to 36.008
VIRGIN ISLANDS	1992, Act No. 5777	2-18-1992	5 V.I.C. §§ 561 to 569
VIRGINIA	1990, c. 276		Code 1950, §§ 8.01-465.6 to 8.01-465.13
WASHINGTON	1975, c. 240, 1st Ex.Sess.	6-26-1975	West's RCWA 6.40.010 to 6.40.915

APPENDIX B

FLORIDA'S ENACTMENT OF THE UNIFORM FOREIGN MONEY-
JUDGMENTS RECOGNITION ACT
FLORIDA STATUTES §§ 55.601-55.606 (1998)

55.601. Uniform Foreign Money-Judgment Recognition Act; short title
Sections 55.601-55.607 may be cited as the "Uniform Out-of-country Foreign Money-Judgment Recognition Act."

55.602. Definitions

As used in this act, the term:

(1) "Foreign state" means any governmental unit other than the United States, or any state, district, commonwealth, territory, insular possession thereof, or the Panama Canal Zone, the Trust Territory of the Pacific Islands, or the Ryukyu Islands.

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

55.603. Applicability

This act applies to any foreign judgment that is final and conclusive and enforceable where rendered, even though an appeal therefrom is pending or is subject to appeal.

55.604. Recognition and enforcement

Except as provided in s. 55.605, a foreign judgment meeting the requirements of s. 55.603 is conclusive between the parties to the extent that it grants or denies recovery of a sum of money. Procedures for recognition and enforceability of a foreign judgment shall be as follows:

(1) The foreign judgment shall be filed with the clerk of the court and recorded in the public records in the county or counties where enforcement is sought.

(a) At the time of the recording of a foreign judgment, the judgment creditor shall make and record with the clerk of the circuit court an affidavit setting forth the name, social security number, if known, and last known post-office address of the judgment debtor and of the judgment creditor.

(b) Promptly upon the recording of the foreign judgment and the affidavit, the clerk shall mail notice of the recording of the foreign judgment, by registered mail with return receipt requested, to the judgment debtor at the address given in the affidavit and shall make a note of the mailing in the docket. The notice shall include the name and address of the judgment

creditor and of the judgment creditor's attorney, if any, in this state. In addition, the judgment creditor may mail a notice of the recording of the judgment to the judgment debtor and may record proof of mailing with the clerk. The failure of the clerk to mail notice of recording will not affect the enforcement proceedings if proof of mailing by the judgment creditor has been recorded.

(2) The judgment debtor shall have 30 days after service of the notice to file a notice of objection with the clerk of the court specifying the grounds for nonrecognition or nonenforceability under this act.

55.604. Recognition and enforcement

(3) Upon the application of any party, and after proper notice, the circuit court shall have jurisdiction to conduct a hearing, determine the issues, and enter an appropriate order granting or denying recognition in accordance with the terms of this act.

(4) If the judgment debtor fails to file a notice of objection within the required time, the clerk of the court shall record a certificate stating that no objection has been filed.

(5) Upon entry of an order recognizing the foreign judgment, or upon recording of the clerk's certificate set forth above, the foreign judgment shall be enforced in the same manner as the judgment of a court of this state.

(6) Once an order recognizing the foreign judgment has been entered by a court of this state, the order and a copy of the judgment may be recorded in any other county of this state without further notice or proceedings, and shall be enforceable in the same manner as the judgment of a court of this state.

(7) A lien on real estate in any county shall be created only when there has been recorded in the official records of the county (a) a certified copy of the judgment, and (b) a copy of the clerk's certificate or the order recognizing the foreign judgment. The priority of such lien will be established as of the time the latter of the two recordings has occurred. Such lien may be partially released or satisfied by the person designated pursuant to paragraph (1).

55.605. Grounds for nonrecognition

(1) A foreign judgment is not conclusive if:

(a) The judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law.

(b) The foreign court did not have personal jurisdiction over the defendant.

(c) The foreign court did not have jurisdiction over the subject matter.

(2) A foreign judgment need not be recognized if:

(a) The defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him or her to defend.

(b) The judgment was obtained by fraud.

(c) The cause of action or claim for relief on which the judgment is based is repugnant to the public policy of this state.

(d) The judgment conflicts with another final and conclusive order.

(e) The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court.

(f) In the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action.

(g) The foreign jurisdiction where judgment was rendered would not give recognition to a similar judgment rendered in this state.

55.606. Personal jurisdiction

The foreign judgment shall not be refused recognition for lack of personal jurisdiction if:

(1) The defendant was served personally in the foreign state;

(2) The defendant voluntarily appeared in the proceedings, other than for the purpose of protecting property seized or threatened with seizure in the proceedings or of contesting the jurisdiction of the court over him or her;

(3) The defendant, prior to the commencement of the proceedings, had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved;

(4) The defendant was domiciled in the foreign state when the proceedings were instituted, or, being a body corporate, had its principal place of business, was incorporated, or had otherwise acquired corporate status, in the foreign state;

(5) The defendant had a business office in the foreign state and the proceedings in the foreign court involved a cause of action or a claim for relief arising out of business done by the defendant through that office in the foreign state; or

(6) The defendant operated a motor vehicle or airplane in the foreign state and the proceedings involved a cause of action or claim for relief arising out of such operation.