

Foreign Court Order Ruled Unenforceable: Court Nullifies Award of Attorneys Fees

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In the litigation captioned [In Re the Marriage of Natalija and Nikolai Solomon Lyustiger](#), 2009 DJDAR 14245 (2009) the [Third District Court of Appeal](#) decided an action based on the [Uniform Foreign Money-Judgments Recognition Act](#) (Act).

Natalija Lyustiger (Wife) sought to enforce two orders of a British domestic relations court requiring Nikolai Solomon Lyustiger (Husband) to pay a total of 50,000 pounds for Wife's attorney fees arising from dissolution proceedings. After trial, the California trial court (Yolo County) determined that enforcement of the British orders was proper under the Act and entered judgment accordingly.

On appeal the Third District reversed the lower court's ruling noting that the Act specifically excludes from its scope the enforcement of "support in matrimonial or family matters." Moreover the Act contains a broad definition of "support." The court stated that the award of fees was for purposes of the Act, in the nature of "support;" therefore, the trial court erred by enforcing the award of attorney fees.

Natalija and Nikolai Lyustiger met in London in April 2001 and were married in the U.S. in 2002. They lived in Russia, until Natalija moved back to London alone. The Lyustigers apparently divorced in 2004 and entered into a settlement agreement whereby Nikolai agreed to pay spousal support to Natalija. In 2005, the parties sought and received a Russian decree of divorce.

Later, Natalija filed for divorce in the High Court of Justice in London. Husband argued that the court did not have jurisdiction because the marriage had already been dissolved. The British court ordered Nikolai to pay 50,000 pounds for Natalija's attorney fees and Husband ignored that order. In 2006, after moving to California, Wife sued Husband to enforce the British fee award. The trial court held that the British order was enforceable and required Nikolai to pay the attorney fees.

On appeal the court specifically noted that the Act allows a judgment of a foreign state to be enforceable in the same manner as the judgment of a sister state. The court of appeal stated however, that the Act excludes the enforcement of foreign-county judgments for "support in matrimonial or family matters" and that term "support" is defined broadly.

Because the British order awarded attorney fees as part of Natalija's maintenance, which is basically the same as "support" for purposes of California law, the Act did not apply and the court of appeal reversal.