

Florida Asset Protection Case: “Renewed” Judgment is Enforceable Action on Judgment

June 2, 2011 By Jeramie Fortenberry

A recent Palm Beach County case illustrates the problems that a Florida judgment creditor can have when trying to enforce a judgment in another jurisdiction. In [Corzo v. West](#), the judgment creditor had to jump through several hoops in response to a Georgia court’s refusal to recognize a 20+ year old judgment. And it’s not over yet.

The Takeaway

Florida attorneys should know how to use an action on judgment to facilitate enforcement of a judgment when the statute of limitations is about to expire. And it doesn’t hurt to style your pleadings correctly.

Summary of Holding

4DCA: In spite of confusing terminology, a “renewed” judgment was an action on judgment and, as such, was a separate cause of action. Although the action on judgment would have been barred by the statute of limitations, that defense was waived since it wasn’t pleaded.

The Story

- March 6, 1985 – Corzo obtains an amended final judgment against West, but is unable to enforce it (presumably because West didn’t want to be found).
- 2001 – Corzo finds out that West is living in Georgia. It seeks to enforce the 1985 judgment, but the Georgia court holds that the judgment is barred by Georgia’s 10-year statute of limitations. The court holds that the statute of limitations began to run in 1985 because that is “the date the judgment [was] entered or last renewed in the rendering state.”
- August 3, 2006 – Picking up on the “last renewed” language in the Georgia decisions, Corzo files a “Complaint to Renew Judgment” in Florida. West is personally served with notice of this complaint. The Circuit Court (15th Judicial District) enters a default final judgment stating that the 1985 judgment is “renewed with all accrued post judgment interest.”
- Early 2009 – The Georgia court will not allow the Florida court’s “renewed” judgment to circumvent the 10-year statute of limitations. The court reasons that to hold otherwise would give Florida judgments a longer shelf life than Georgia judgments.
 - **Note:** Undergirding the Georgia opinion is the court’s belief that the 2006 judgment was “a renewal of the 1985 judgment and not a new action.”

- March 2009
 - Seeking to get around the Georgia court's decision that the 2006 judgment was not a new cause of action (and was thus barred by the statute of limitations), Corzo files a new case in Florida seeking an "action on judgment."
 - West responds that the action on judgment is also time-barred since the statute of limitations on the original judgment expired in 2005.
 - Corzo moves for summary judgment. The Circuit Court denies the motion and dismisses the complaint with prejudice, and enters a final judgment in favor of West. Corzo appeals.

The Law

- An action on judgment is a common law cause of action that is separate from the original judgment on which it is based. Its purpose is to allow a new, independent judgment to help enforce the original judgment. If the statute of limitations is about to run on a judgment, a judgment creditor can start the clock over by bringing an action on the original judgment to obtain a new judgment.
- When defending an action on judgment, the defendant can't raise defenses that could have been asserted in the original action. The defendant can only raise defenses that have arisen since the time of the original judgment (e.g., payment, release, accord and satisfaction, statute of limitations).

The Analysis

- The 2006 judgment was not a renewal of the 1985 judgment. It was an action on judgment and, as such, was a new and independent judgment. The use of terms like "renew" and "renewed" in the Circuit Court's 2006 opinion caused confusion, but those terms have been used in other Florida cases to refer to an action on judgment.
- Although the 20-year statute of limitations on an action on a judgment had expired by 2006, that defense is waived unless pleaded. Since West didn't raise that defense in 2006, he "could not attempt to resurrect that defense in this current and separate action."

The Holding

Reversed. Since the 2006 judgment was a new cause of action and since West waived the defense of statute of limitations, the Circuit Court's dismissal was improper.