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**An Exception to Full Faith and Credit, Or The Tyranny of the Clerk's Office:
Dealing With the Aftermath of
Ahmad Hamad Al Gosaibi & Bros. Co. v. Standard Chartered Bank, 98 A.3d 998 (D.C. 2014)**

*by Andrew Wible**

A funny thing happened to me the other day when I attempted to register a foreign judgment in the D.C. Superior Court under the provisions of the Uniform Enforcement of Foreign Judgments Act of 1990, D.C. Code §§ 15-351–15-357 (“Enforcement Act”). A “foreign judgment” is simply a judgment from another state, which under the Constitution is entitled to “full faith and credit” in any other state. Traditionally, a party who had obtained a judgment in one state and wanted to enforce it in another had to file a separate lawsuit in the second state, but the Enforcement Act changed that by providing “an expeditious and simple procedure” to enforce foreign judgments upon the mere act of filing a certified copy of the foreign judgment with the Clerk.

I filed my foreign judgment with the Clerk, but he did not register the judgment as required by the Enforcement Act. Instead, the judgment was referred to a judge for a status hearing to determine whether it was a foreign judgment entitled to full faith and credit, or whether it was a foreign country judgment which was not (although on its face my judgment was issued by another state court, the award was in a foreign currency). It was then I realized that the Superior Court read the Court of Appeals’ holding in *Ahmad Hamad Al Gosaibi & Bros. Co. v. Standard Chartered Bank* much more broadly than I had.

In *Ahmad*, the Court of Appeals addressed for the first time the question of whether a judgment of another state that recognized a foreign country judgment was entitled to full faith and credit. The facts of the case are as follows. Standard Charter Bank obtained a substantial judgment against Ahmad Hamad Al Gosaibi & Bros. Co. (“AHAB”) in Bahrain. The bank brought an action to recognize the Bahraini judgment in New York under its Uniform Foreign Country Money-Judgments Recognition Act, N.Y. C.P.L.R. § 5301 *et seq.* (the “NY Recognition Act”), which provides a framework by which the state will enforce a foreign country judgment under the principles of comity. AHAB unsuccessfully asserted various grounds for non-recognition of the Bahraini judgment, and the New York court entered judgment in favor of the bank. The bank then registered the New York judgment in the District of Columbia pursuant to the Enforcement Act. AHAB filed an action in the D.C. Superior Court seeking to set aside the judgment, which the court denied, and AHAB appealed to the D.C. Court of Appeals.

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The Court of Appeals held that the New York judgment was not entitled to full faith and credit, and hence could not be registered under the Enforcement Act. 98 A.3d at 1008. That holding was supported by two independent grounds. First, the New York court lacked personal jurisdiction over AHAB; therefore, under well-established Supreme Court precedent, the Superior Court need not give it full faith and credit. *Id.* at 1005. Second, because the NY Recognition Act imposed laxer standards of recognition than its D.C. counterpart, D.C.'s interest to determine for itself whether to recognize the Bahraini judgment overrode federal interests of full faith and credit that would otherwise require D.C. to enforce the New York judgment. Notably the latter ground was unsupported by any Supreme Court decision, as the Supreme Court has never recognized any local policy exception to the full faith and credit requirement due judgments.

Although the *Ahmad* court narrowly held that the New York judgment at issue was not entitled to full faith and credit, the Superior Court had apparently broadly interpreted it to deny full faith and credit to *all* "recognition judgments" (a state court judgment recognizing a foreign country judgment) as a matter of law. As a result, notwithstanding the clear language of the Enforcement Act, the Superior Court would not register a sister state judgment if it was a recognition judgment; instead, the judgment creditor had to re-recognize the underlying foreign country judgment in a new action under the provisions of D.C.'s Uniform Foreign-Country Money Judgment Recognition Act, D.C. Code §§ 15-361–15-371.

The Superior Court's interpretation of *Ahmad* to preclude registration of recognition judgments is simply wrong, relying entirely on dicta in the *Ahmad* opinion. For purposes of binding precedent, the concept of a holding is a narrow one: a statement of the outcome of the case together with one or more legal conclusions that are "necessary" to explain the outcome; other observations are dicta. In *Ahmad*, the court's observations about recognition judgments generally were both uninformed (it is not true that all courts recognizing foreign country judgments do not require personal jurisdiction over the debtor) and unsupported by any analysis (the Supreme Court has never recognized a policy-based exception to the full faith and credit due judgments). But in any event, those observations were not necessary to support the court's conclusion that the New York judgment was not entitled to full faith and credit. That conclusion rested on the fact that the New York court lacked personal jurisdiction over the debtor, and because New York employed different standards for recognition of a foreign country judgment than the District.

Fortunately I was able to prevail upon the assigned judge that *Ahmad* should not be applied so broadly. The process, however, took more than 45 days, and required the accrual of additional legal fees for a procedure that *should* require nothing more than a routine filing. Despite my "success", there was no indication that the Superior Court or Clerk's Office is abandoning their broad interpretation of *Ahmad* and related imposition of extra-statutory procedures. My experience merely reinforces the importance of understanding the potential roadblocks to enforcement of a foreign country judgment, and planning your litigation in a manner that best allows you to successfully navigate those pitfalls.

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recognition and enforcement.