

# Enforcement of Judgments: Overview (United States)

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A Practice Note providing an overview of the key practical issues concerning enforcement of judgments in the United States.

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Enforcement is a key stage in resolving a dispute. If the judgment debtor voluntarily complies with the judgment or if parties wish only to rely on the judgment as res judicata and prevent another party from re-litigating a claim or defense, enforcement proceedings will not be necessary (though the judgment may still need to be recognized). However, in many instances,

enforcement is necessary to give effect to the judgment. The process can be especially complex and time-consuming if the judgment is being enforced in an overseas jurisdiction.

This Note provides an overview of the legal framework for enforcement of judgments in the United States. It explains the key issues counsel should consider when advising on enforcement of domestic and foreign judgments, including:

- The procedure for enforcement.
- The grounds on which enforcement proceedings can be challenged.
- The interim measures that can be granted pending enforcement proceedings.
- The various methods of enforcing a judgment.

## Enforcement Legislative Framework (Domestic and Foreign)

### Domestic Framework

Enforcement of state or federal judgments is typically governed by the law of the state where the court asked to enforce the judgment is located. The same is true in federal court ([Rule 69\(a\)\(1\) of the Federal Rules of Civil Procedure \(FRCP\)](#)). However, a party is not required to seek enforcement in the same court that rendered the judgment. Under the Full Faith and Credit Clause of the US Constitution, a court of any US state must enforce a valid judgment of any other US state ([U.S. Const. art. IV, § 1](#); [Hampton v. McConnel](#), 16 U.S. 234, 235 (1818)). Federal courts must give valid state court judgments the same full faith and credit that another court in the state where the judgment was taken would afford the judgment ([28 U.S.C. § 1738](#)).

Most states have also adopted the Uniform Enforcement of Foreign Judgments Act (UEFJA) to implement the Full Faith and Credit Clause. The UEFJA expressly provides that the judgment of another US court is enforceable in the same manner as a judgment of the local court (see, for example, N.Y. [CPLR 5402\(b\)](#)). Despite the word "foreign" in the name, these rules only apply to judgments from other US states. A judgment by the courts of a foreign country must first be recognized under the Recognition Acts to be enforceable under the UEFJA (see [Foreign Framework](#)).

In some instances, other bodies of law may apply. For instance, federal law governs the enforcement of a judgment for injunctive relief issued by a federal court. At the same time, [FRCP 70](#) and the Securing of the Protection of Our Enduring Constitutional Heritage Act (SPEECH) ([28 U.S.C. §§ 4101-4105](#)) govern actions that seek recognition of foreign defamation judgments.

There are also certain exceptions to enforcement. For instance, versions of the UEFJA enacted by some states do not permit registration of a default or cognovit judgment made by the court of another state (see, for example, N.Y. [CPLR 5401](#); [Czymmek v. Fenstermaker](#), No. 23-CV-8124 (LJL), 2024 WL 246438, at \*5 (S.D.N.Y. Jan. 23, 2024)).

### Foreign Framework

The US does not have any federal law governing enforcement of judgments rendered by a foreign court. However, most US states have adopted a version of the [Uniform Foreign-Country Money Judgments Recognition Act 2005](#) (Recognition Act 2005) or

[Uniform Foreign Money-Judgments Recognition Act 1962](#) (Recognition Act 1962) (together, the Recognition Acts). The remaining states follow the Restatement (Fourth) of Foreign Relations Law of the United States or applicable common law.

Generally, a federal court sitting in diversity jurisdiction applies the law of the forum state in determining whether to enforce a foreign judgment (for example, *De Fontbrune v. Wofsy*, 39 F.4th 1214, 1221 (9th Cir. 2022), *cert. denied sub nom. Wofsy v. Sicre de Fontbrune*, 143 S.Ct. 1084 (2023)).

## International Conventions/Agreements

The US is not a signatory to any convention or treaty that requires recognition or enforcement of non-US court judgments (including the [HCCH Convention on the Recognition and Enforcement of Foreign Judgments in Civil and Commercial Matters 1971](#) (Hague Foreign Judgments Convention)). This contrasts with the many conventions regarding foreign arbitration awards to which the US is a party (see [Practice Note, Enforcing Arbitration Awards in the US](#)).

## Definition of Judgment

### Domestic Definition

As defined by the FRCP, "judgments" include decrees and final decisions, as well as certain appealable interlocutory orders ([FRCP 54\(a\)](#)). Judgments do not include:

- Recitals of pleadings.
- Master's reports.
- Records of prior proceedings.

Judgments are not limited to money judgments, and they can include declaratory judgments or injunctions. Judgments are distinguished from decisions, opinions, orders, or findings of fact or law, which may serve as the foundation for a later judgment but are not judgments in themselves.

A judgment must be entered on the court's docket as a separate entry ([FRCP 54\(a\)](#)).

However, even where a federal court has entered a judgment, ultimately most aspects of enforcement are determined by state law ([FRCP 69\(a\)\(1\)](#)).

### Foreign Definition

There is no federal statutory provision governing the recognition or enforcement of foreign judgments. However, most US states have adopted one of the Recognition Acts, which specify that a state will recognize a judgment to the extent that the judgment both:

- Grants or denies recovery of a sum of money.

- Is final, conclusive, and enforceable under the law of the foreign country where rendered.

Judgments for injunctive, declaratory, or other equitable relief are not covered by the Recognition Acts, but US courts may recognize them in certain instances. The Recognition Acts also specifically exclude judgments for taxes, fines, or other penalties, as well as judgments rendered in connection with domestic relations.

Some US states have not adopted the Recognition Acts and instead follow the Restatement (Fourth) of Foreign Relations Law of the United States, which allows for recognition of a slightly broader category of foreign judgments, defined as "a final, conclusive, and enforceable judgment of a court of a foreign state granting or denying recovery of a sum of money, or determining a legal controversy" ([Restatement \(Fourth\) of Foreign Relations Law of the United States § 481](#)).

## Enforceable/Excluded Judgments

### Domestic Judgments

The enforcement of commercial judgments can depend on the state, but in general, commercial judgments are all enforceable, including:

- Money judgments (see, for example, N.Y. [CPLR 5101](#)).
- Injunctions and judgments ordering or prohibiting the doing of acts, including permanent injunctions or preliminary injunctions when considered final (see, for example, *Bard v. Charles R. Myers Ins. Agency, Inc.*, 839 S.W.2d 791, 795 (Tex. 1992) (holding that injunctions against suits in other states that may interfere with the receivership process would be enforced); *Hirchert Fam. Tr. v. Hirchert*, 65 So. 3d 548, 551 (Fla. Dist. Ct. App. 2011) (collecting cases)).
- Declaratory judgments (see, for example, *Berlitz Pub'ns, Inc. v. Berlitz*, 378 N.Y.S.2d 363 (1975); *Auer Sloane v. Dyson*, 107 N.Y.S.3d 916 (4th Dep't 2019)).
- Default judgments (see, for example, *Rios v. Altamont Farms, Inc.*, 486 N.Y.S.2d 913 (1985)). However, some jurisdictions, such as New York, do not allow for summary recognition of default judgments rendered by a non-New York court (N.Y. [CPLR 5401](#) and [5402\(a\)](#)).
- Judgments awarding possession or directing a sale of real property (N.Y. [CPLR 5402](#)).

This can depend on the state, but in general there are no categories of commercial judgments that are excluded from enforcement.

### Foreign Judgments

The following types of foreign judgments are enforceable:

- Money judgments (section 3(a)(1), [Recognition Act 2005](#); section 1, [Recognition Act 1962](#)).

- Default judgments (see, for example, *John Galliano, S.A. v. Stallion, Inc.*, 879 N.Y.S.2d 400, 401-02 (1st Dep't 2009) (enforcing French default judgment), *aff'd*, 904 N.Y.S.2d 683 (2010)).
- Non-tax related administrative decisions. US courts have held that deference to foreign judgments based on comity extends even to non-judicial forums that are part of the administrative apparatus of sovereign states (*Apostolou v. Merrill Lynch & Co.*, 2007 WL 2908074, at \*4 (E.D.N.Y. Oct. 5, 2007)).

The types of judgments that may not be enforceable include:

- Tax or revenue judgments (section 3(b), [Recognition Act 2005](#); section 1, [Recognition Act 1962](#)).
- Penal judgments. US courts ordinarily do not enforce the penal laws of another country (*Huntington v Attrill*, 146 U.S. 657, 673-74 (1892)). An award to a private individual may still be considered "penal" in nature if it seeks to address a public wrong rather than to compensate an individual.
- Pre-judgment attachment. US courts are generally reluctant to allow a party to attach or seize a defendant's property before a final judgment. This reluctance stems from the principle that pre-judgment attachment is an extraordinary remedy available only under limited circumstances and should only be granted where drastic action is required for security purposes. (*Interglobo S.R.L. v. Garden Interior Gift Int'l, Inc.*, 2009 WL 3003185 (S.D.N.Y. Sept. 15, 2009).)

Some states may choose not to recognize default or consent judgments in certain circumstances.

## Enforcing Domestic Judgments

### Enforcement Procedure

Procedures for enforcing state judgments vary by state. Differences among states include the enforcement devices available to a judgment creditor and the procedural requirements the judgment creditor must follow to obtain relief. Generally, entry of judgment creates a lien on the debtor's real property ([N.Y. CPLR 5018\(a\)](#); [RCW 4.56.190](#)), but some states require a court order in some circumstances (for example, [14 M.R.S.A § 3132](#)).

Generally, non-monetary judgments are enforceable by serving the counterparty or relevant third-party with the judgment, and the judgment can be enforced through the court's contempt powers (*Abrams v. Abrams*, 208 N.Y.S.3d 201 (1st Dep't 2024); [RCW 6.17.070](#)). In some jurisdictions, the sheriff may directly enforce orders awarding possession of property (for example, [N.Y. CPLR 5102](#)).

Execution and garnishment are remedies available to enforce monetary judgments in many states ([RCW 6.17.070](#); [N.Y. CPLR 5231](#) (income), [N.Y. CPLR 5232-33](#) (personal property), [N.Y. CPLR 5235-36](#) (real property); [Me. R. Civ. P. 69](#)). Execution directs the sheriff to seize and sell the debtor's personal or real property to satisfy the judgment, and garnishment directs a third party indebted to the debtor to pay money to the creditor instead of the debtor ([RCW 6.27.120](#)). States typically allow a judgment creditor to take discovery to determine where the debtor's assets are located ([N.Y. CPLR 5223-24](#)).

In addition, attorneys' fees may be recoverable in certain circumstances (see, for example [N.Y. Jud. Law § 773](#); [Abrams, 208 N.Y.S.3d at 201](#) (allowing recovery of attorney fees for contempt proceeding aiding judgment enforcement)). Practitioners should carefully check local statutes and state civil procedure rules.

For federal decisions, a certified copy of an entered judgment can be obtained either from the court that rendered the judgment (by filing [Form AO 451](#) together with a filing fee), or from the [General Services Administration's National Archives and Records Center](#). A copy of the certified judgment can then be registered in another US federal district court by filing a Civil Cover Sheet and paying an additional fee. However, state law continues to govern enforcement proceedings, including the statute of limitations (see [Limitation Period](#)).

Aid of an attorney is recommended but not required.

## Limitation Period

Except for judgments for specific relief, which are governed by federal law, state law governs the statute of limitations within which a judgment must be enforced. The applicable statute of limitations can vary widely between states (see, for example, [14 M.R.S.A. § 4652](#) (first execution may not be filed more than one year after judgment becomes final); [Boudette v. Boudette, 453 P.3d 893, 895-96 \(2019\)](#) (Arizona statute allowed five years versus 10 years in Montana); [D.C. Code § 15-101](#) (12 years to enforce judgment)).

## Competent Court

Ordinarily, a party seeking to enforce an out-of-state judgment must pursue recognition and enforcement in a court that has jurisdiction over the defendant. However, in some state courts, enforcement may be possible even without a showing of personal jurisdiction if the judgment is not challenged on substantive grounds and the judgment debtor is alleged to have assets in the state (see, for example, [AlbaniaBEG Ambient Sh.p.k. v. Enel S.p.A., 73 N.Y.S.3d 1, 11-12 \(1st Dep't 2018\)](#)).

## Application for Enforcement

### Required Documents

Most states require a party seeking to enforce a foreign judgment to file a copy of the foreign judgment that has been authenticated in accordance with federal or state law (see, for example, N.Y. [CPLR 5402](#)). To allow the court to provide notice of the entry of the judgment to the defendant, courts often also require an affidavit stating the name and last known address of the judgment debtor and attesting that the debtor was given notice and that the judgment is presently enforceable (N.Y. [CPLR 5402](#)).

### Information to Include

The required contents of an application to enforce a judgment vary by state. In general, applications must include:

- The name and last known address of the judgment debtor and creditor.
- The sum recovered or directed to be paid.

- The date and time the judgment was filed and docketed.
- The name of the court that rendered the judgment.
- The basis for that court's jurisdiction over the defendant.

(See, for example, N.Y. [CPLR 5018\(c\)](#), which discusses the judicial judgment docketing procedure for New York judgments.)

The application should also state whether the judgment can still be appealed.

## Staying Enforcement

US courts do not review most of the conditions surrounding a domestic judgment before enforcing that judgment. For example, courts do not review whether:

- The defendant received proper notice, except in the case of a default judgment.
- A conflicting domestic or foreign judgment exists.
- The judgment is compatible with public policy.
- The original court had proper jurisdiction over the defendant, except in the case of a default judgment.
- The judgment is final.

US states are constitutionally bound to "give full faith and credit" to the judgments of other states ([U.S. Const. art. IV, § 1](#)).

A debtor-defendant can challenge the judgment in the enforcing court on the grounds that the rendering court lacked jurisdiction (*Underwriters Nat. Assur. Co. v. N. Carolina Life & Acc. & Health Ins. Guar. Ass'n*, 455 U.S. 691, 704 & n.10 (1982)). However, if the debtor-defendant contested or waived jurisdiction in the rendering court, the debtor-defendant is generally barred by *res judicata* from relitigating that issue (*id. at 706*). A judgment can also be collaterally attacked if it was rendered without due process, although this is a high bar (*Kremer v. Chem. Const. Corp.*, 456 U.S. 461, 481-83 (1982) ("state proceedings need do no more than satisfy the minimum procedural requirements of the Fourteenth Amendment's Due Process Clause")).

Each state has its own requirements to enforce a judgment, but US courts do not review the adequacy of service in the original proceedings under the Full Faith and Credit Clause of the US Constitution ([U.S. Const. art. IV, § 1](#)).

The judgment can be enforced even if an appeal is pending in the rendering court. The debtor can then choose to seek a stay of enforcement pending the outcome of the appeal (see, for example, *Carter v. Hodge*, 150 N.Y. 532, 536 (1896); *R.I. Gen. Laws Ann. § 9-25-4* (court may stay enforcement on motion and for cause shown)). Enforcement of a foreign state judgment may be stayed pending appeal if a bond is posted (N.Y. [CPLR 5404](#)).

## Interim Remedies

Procedures vary widely between states, but a judgment creditor may be able to attach a debtor's assets in the US court's jurisdiction while the court considers whether to enforce the judgment. Under N.Y. [CPLR 6201\(5\)](#), a court can order pre-judgment attachment in connection with proceedings seeking recognition or enforcement of a judgment, decree, or order of a US court.

State law may also provide for other interim remedies, such as an order of attachment on posting of a bond as security (see, for example, N.Y. [CPLR 6201\(5\)](#)). In New York, the attachment remedy is available with or without notice to the debtor (N.Y. [CPLR 6211](#)).

## Costs and Interest

A judgment creditor is entitled to interest. Interest runs from the date the judgment is rendered until the date it is paid.

In federal court, interest is calculated based on the preceding week's average one-year constant maturity Treasury yield [published by the Federal Reserve System \(28 U.S.C. § 1961\)](#). In state court, the interest rate varies (for example, N.Y. [CPLR 5004](#) (nine percent); *Greene v. Philip Morris USA Inc.*, 208 N.E.3d 676, 688-91 (Mass. 2023) (fixed twelve percent for some claims, a floating rate for others)).

A party may be able to recover costs and attorney fees. Attorney fees are generally not recoverable unless provided for by law or contract (*Beebe v. Pierce*, 521 P.3d 1263, 1264-65 (Col. 1974); *Rosen v. LegacyQuest*, 225 Cal. App. 4th 375, 382 (2014)).

Pre-judgment interest may be available in certain actions, which vary by state (N.Y. [CPLR 5001\(a\)-\(b\)](#); [Colo. Rev. Stat. Ann. § 13-21-101, 102](#); *Salt Meadows Homeowners Ass'n, Inc. v. Zonko Builders, Inc.*, 312 A.3d 195, 202-04 (Del. 2024); *City of Gulfport v. Cowan Rd. & HWY 90, LLC*, 352 So. 3d 592, 600-01 (Miss. 2022)).

## Enforcement of Foreign Judgments

### Foreign Judgment Procedure

The procedures for enforcing a foreign money judgment and a domestic judgment of a court in another state (see [Enforcing Domestic Judgments](#)) are similar for states following the Recognition Acts, except that there are more grounds available to challenge the enforceability of a foreign judgment. (See section 4, [Recognition Act 2005](#); section 4, [Recognition Act 1962](#); *AlbaniaBEG*, 73 N.Y.S.3d at 6.)

The Restatement provides that final, conclusive, and enforceable judgments granting or denying money, or determining a legal controversy, are generally enforceable ([Restatement \(Fourth\) of Foreign Relations Law § 481](#)). Courts will refuse to recognize a foreign judgment if the judgment was rendered in a judicial system that, as a whole, does not provide fundamentally fair tribunals or procedures, the foreign court lacked jurisdiction, or the judgment violates the SPEECH Act ([Restatement \(Fourth\) of Foreign Relations Law § 483](#)). Courts may refuse to recognize a foreign judgment on a variety of grounds, including but not limited to public policy, unfairness, fraud, or lack of notice ([Restatement \(Fourth\) of Foreign Relations Law § 484](#)). Fairness in § 483 pertains to the judicial system as a whole, whereas in § 484 the opponent only needs to show that the rendering court, not the whole judicial system, is unfair or lacks integrity. Once a foreign judgment is recognized, Restatement jurisdictions allow enforcement in the same manner as a domestic judgment ([Restatement \(Fourth\) of Foreign Relations Law § 486](#)).

### Simplified Procedure



Each state has its own statutes and rules that set out the procedures and conditions under which a foreign judgment can be enforced. In some states, a foreign money judgment is regarded as conclusive between the parties, and parties are only required to file the judgment with the court clerk.

In New York, for instance, a judgment, including a foreign judgment, can be enforced through an accelerated procedure called "Summary Judgment in Lieu of Complaint," under which the judgment creditor files a summons, a motion for summary judgment, and supporting papers (N.Y. CPLR 3213 and 5303(b)). Unless there is a material issue of fact that precludes summary judgment, the court decides the matter on that application, with no discovery or trial.

Under § 6 of the [Uniform Foreign Country Money Judgment Recognition Act](#) (UFCMJRA), a foreign country judgment is recognized in either a new matter, if recognition is sought as an original matter, or raised by counterclaim, cross-claim, or affirmative defense, if sought in a pending action. The same procedure applies under the Restatement. [Restatement \(Fourth\) of Foreign Relations Law § 482 \(2018\)](#).

### **New Action**

Whether a party seeking enforcement of a foreign judgment must commence a new action varies by state. Some states view a foreign money judgment as conclusive between the parties and require only that the judgment be filed with the clerk of the court, while others require the plaintiff to commence a new proceeding. These differing approaches can be seen by comparing the law in Florida (§ 55.604, [Fla. Stat.](#)) with the law in Louisiana ([La. Code Civ. Proc. Ann. art. 2541](#)). New York's summary judgment proceeding falls between those alternatives.

### **Limitation Period for Foreign Judgments**

Under Section 9 of the [Recognition Act 2005](#), an action to recognize a foreign-country judgment must be commenced within the earlier of the time during which the foreign-country judgment is effective in the foreign country or 15 years from the date that the foreign-country judgment became effective in the foreign country. As of 2023, 39 states followed the UFCMJRA (David Wemhoff, *The Enforcement of Foreign Country Money Judgments: An Overview*, Fed. Law., Summer 2023, at 46 n. 58).

However, the Recognition Acts also contain state-to-state variations, and practitioners should evaluate local law. For example, in Washington, [RCW 6.40A.080](#) provides that a foreign country judgment must be recognized at the earlier of 15 years from date foreign country judgment became effective or during the time the foreign country judgment is effective in the foreign country. However, under N.Y. [CPLR 5303\(d\)](#), a foreign country judgment must be recognized within the earlier of 20 years from date foreign country judgment became effective in the foreign country or during the time the foreign country judgment is effective within the foreign country.

### **Competent Court for Filing Foreign Judgment Enforcement**

While every state varies, generally, any state court with subject-matter jurisdiction may recognize a foreign country judgment (N.Y. [CPLR 5303\(a\)](#)). Personal jurisdiction, whether *in personam*, *in rem*, or *quasi in rem*, is required but waivable ([Harvardsky Prumyslovy Holding, A.S.-V Likvidaci v. Kozeny](#), 90 N.Y.S.3d 10, 11 (1st Dep't 2018)), though arguably contrary authority exists that holds that personal jurisdiction is not required ([Lenchyshyn v. Pelko Elec., Inc.](#), 723 N.Y.S.2d 285, 289-92 (4th Dep't 2001)).

### **Application for Enforcing Foreign Judgments**

## Documents for Application

In addition to the other requirements discussed in [Enforcement of Foreign Judgments](#), judgments in a foreign language should be accompanied by both:

- A certified English translation.
- An affidavit by an expert in the law of the jurisdiction that rendered the judgment establishing that the judgment is final, conclusive, and enforceable in that jurisdiction, unless this is obvious from the face of the judgment.

If either the expert's affidavit or the supporting documentation is in a foreign language, the creditor should also provide a certified English translation (*Sea Trade Maritime Corp. v Coutsodontis*, 978 N.Y.S.2d 115, 117-18 (1st Dep't 2013)).

There is no general requirement for conversion of currency into US dollars under the Recognition Acts. However, some jurisdictions may still require conversion (*El Universal, Compania Periodistica Nacional, S.A. de C.V. v. Phoenician Imports, Inc.*, 802 S.W.2d 799, 801 n.1 (Tex. App.—Corpus Christi-Edinburg 1990, pet. denied).

## Foreign Judgment Application Information

The information that must be submitted to enforce a foreign judgment is generally similar to what must be submitted for sister US state judgments (see [Information to Include](#)), except that the application should be accompanied by an affidavit from an expert on the foreign law establishing that the judgment is final, conclusive, and enforceable in that jurisdiction (see [Documents for Application](#)).

In addition to the statutory requirements, most courts hold that the burden of proving the existence of a basis for non-recognition is on the party resisting enforcement. However, some New York courts have indicated that the plaintiff must make a prima facie showing of enforceability, so the plaintiff should supply enough information to address the most common objections. This information should demonstrate that the foreign country's judicial system does not lack in fairness and that the foreign court had jurisdiction over the defendant when it entered the judgment (*Flame S.A. v. Indus. Carriers*, 777 F. Supp. 2d 717, 719 (S.D.N.Y. 2011)).

## Challenging Enforcement: Grounds

In contrast to domestic judgments, US courts may consider a variety of factors when determining whether to enforce a foreign judgment. For example, courts consider whether:

- The defendant received proper notice of the proceedings (see [Due Process](#)).
- The judgment was final (see [Finality](#)).
- Enforcing the judgment would violate US public policy.
- The statute of limitations expired (see [Limitation Period for Foreign Judgments](#)).

Courts may also consider other factors. For example, a foreign judgment need not be recognized if it conflicts with a separate final and conclusive judgment (section 4(c)(4), [Recognition Act 2005](#); section 4(b)(4), [Recognition Act 1962](#); see also [Servipronto De El Salvador, S.A. v McDonald's Corp.](#), 837 F. App'x 817, 819 (2d Cir 2020) (declining to enforce a judgment that would have conflicted with a final decision from a Salvadorean court)).

Reciprocity may also be a factor. Although neither the Recognition Acts nor the Restatement (Fourth) of Foreign Relations Law of the United States mention reciprocity, some US states make reciprocity either a discretionary or mandatory ground for recognition.

If the rendering court lacks personal jurisdiction over the defendant, then the judgment may be unenforceable. However, personal jurisdiction requirements can be waived by the defendant ([CIBC Mellon Tr. Co. v. Mora Hotel Corp. N.V.](#), 762 N.Y.S.2d 5, 10-11 (2003) (defendants waived personal jurisdiction by appearing at the foreign proceeding other than for the purpose of contesting jurisdiction)). Courts also generally refuse to recognize foreign country judgments when the rendering court lacked subject-matter jurisdiction (see, for example, N.Y. [CPLR 5304\(a\)\(3\)](#)).

### Review of Merits

Whether a US court can substantively review a foreign court's decisions depends on the applicable state law. In New York, for example, there is no provision that expressly allows a review of the substance of a foreign judgment. However, under certain circumstances, a court can make a limited inquiry into the substance of the underlying judgment. For example, under N.Y. [CPLR 5304\(b\)\(4\)](#), a court can refuse recognition if the cause of action on which the judgment is based is repugnant to the public policy of the state. Adjudication of this exception often requires courts to examine the substance of the underlying judgment, but only within the strict confines of determining whether it complies with public policy (see [Public Policy](#)).

### Due Process

US courts first determine whether the country where the judgment was issued is a signatory of the [Hague Service Convention](#). If the country is a signatory and has adopted the Hague Service Convention rules, the court determines whether the foreign jurisdiction followed them ([Ackermann v. Levine](#), 788 F.2d 830, 838-40 (2d Cir. 1986)). However, if the issuing country is not a Hague Service Convention signatory, the US court considers whether proper service was issued under both the local country's law and US law.

Courts are primarily concerned with procedural due process, that is, notice and opportunity to be heard ([Trejos Hermanos Sucesores S.A. v. Verizon Commc'ns Inc.](#), No. 1:21-CV-08928 (JLR), 2024 WL 149551, at \*7 (S.D.N.Y. Jan. 12, 2024) (applying New York law)). Lack of actual notice is not always sufficient to prevent judgment enforcement under due process principles when the notice sent is reasonably calculated to apprise the defendant of the action. ([Vinogradov v. Sokolova](#), 177 N.Y.S.3d 464, 468-69 (N.Y. Sup. Ct. 2022)).

### Finality

A foreign judgment must be final for a US court to enforce it (section 3(a)(2), [Recognition Act 2005](#); section 3, [Recognition Act 1962](#)). However, this does not mean that the defendant must have exhausted all appeals in the issuing jurisdiction. Nevertheless, as a practical matter, many US states wait to enforce a judgment until all appeals are decided. Courts often look to the law of the issuing jurisdiction when determining whether a decision is final (see, for example, [Manco Contracting Co. \(W.L.L.\) v. Bezdikian](#), 45 Cal. 4th 192, 195-96 (2008); [Perry v. KLCC Holdings 1 Ltd.](#), 489 P.3d 916 (Nev. 2021)). A court may exercise its discretion to stay a foreign country judgment pending appeal but can also decide to allow enforcement ([Krineta Enters. Co. v. Lavidas](#), 22 N.Y.S.3d 137 (Sup. Ct. N.Y. Co. 2015) (exercising discretion to grant stay pending appeal in Greek court); [CDR Créances](#)

*S.A. v. Euro-Am. Lodging Corp.*, 801 N.Y.S.2d 232 (Sup. Ct. N.Y. Co. 2005) (exercising discretion to deny stay pending appeal to higher French or European court)).

## Jurisdiction

US courts only enforce judgments arising from foreign courts that had proper personal and subject-matter jurisdiction over the judgment debtor (*Hilton v. Guyot*, 159 U.S. 113, 202 (1895); sections 4(b)(2), (3), [Recognition Act 2005](#); sections 4(a)(2), (3), [Recognition Act 1962](#)). When determining whether a foreign court actually had jurisdiction, US courts look to see if the foreign court's exercise of jurisdiction was properly consistent with the particular US state's concept of personal jurisdiction (see, for example, *Batbrothers LLC v Paushok*, 101 N.Y.S.3d 297, 298 (1st Dep't 2019)). In other words, the jurisdiction exercised by the foreign court must be consistent with the US due process standards.

US courts have found that jurisdiction is consistent with due process when the defendant's actions that took place within the geographic area asserting jurisdiction were connected to the conduct at issue in the dispute. For example:

- *McGowan v. Smith*, where the court held that specific jurisdiction under N.Y. [CPLR 302\(a\)\(1\)](#) required an articulable nexus between the business transacted and the cause of action ([437 N.Y.S.2d 643, 645 \(1981\)](#)).
- *In re Terrorist Attacks on September 11, 2001*, where the court held that specific jurisdiction under a due process clause required the plaintiff's claims to arise out of or relate to the defendant's forum contacts ([714 F.3d 659, 673-74 \(2d Cir. 2013\)](#)).
- *Falcon Mfg. (Scarborough) Ltd v. Ames*, where the court declined to recognize a judgment issued by a Canadian court after finding that the Canadian long-arm statute used to establish personal jurisdiction was too broad ([278 N.Y.S.2d 684, 688 \(Civ. Ct. N.Y. Co. 1967\)](#); see also *Siedler v Jacobson*, [383 N.Y.S.2d 833, 834 \(1st Dep't 1976\)](#)).

## Exorbitant Ground of Jurisdiction

US courts only recognize and enforce foreign judgments issued in a manner that complies with US due process standards. If a defendant did not appear in front of the foreign court that rendered judgment, US courts consider whether jurisdiction was proper ([Restatement \(Fourth\) of Foreign Relations Law of the United States § 481](#), cmt. g).

## Voluntary Acknowledgement of Court's Jurisdiction

If a defendant voluntarily appeared before the foreign court that rendered the judgment, the defendant is generally considered to have waived future challenges to jurisdiction. In such cases, US courts do not consider jurisdictional deficiencies when determining whether to enforce the judgment (*CIBC Mellon Tr.*, [762 N.Y.S.2d at 11-12](#); section 5(a)(2), [Recognition Act 2005](#); section 5(a)(2), [Recognition Act 1962](#)).

## Public Policy

US courts have discretion to decline to enforce foreign judgments because of public policy concerns (section 4(c)(3), [Recognition Act 2005](#); section 4(b)(3), [Recognition Act 1962](#); [Restatement \(Second\) of Conflict of Laws § 117](#), cmt. c). However, this is a narrow exception (*Ackermann*, [788 F.2d at 842](#)), and courts generally only invoke it if some fundamental principle of justice is at

stake. This exception is centered on the cause of action on which the judgment is based rather than the effect of the judgment itself (*Ameropa AG v. Havi Ocean Co.*, 2011 WL 570130, at \*3 (S.D.N.Y. Feb. 16, 2011)).

US courts rarely decline to recognize foreign judgments on public policy grounds because a foreign judgment must violate a fundamental tenet of applicable US law to fit within this category. For example:

- A US court did not recognize a claims discontinuance in an Austrian court because, under Austrian law, the voluntary withdrawal of a claim foreclosed any future claims relating to the same incident. According to the US court, this violated New York public policy because it contradicted US laws relating to claim preclusion. (*Stein v. Siegel*, 377 N.Y.S.2d 580 (2d Dep't 1975).)
- An Italian judgment rendered against a party after that party's death was not enforced because it contradicted the New York law rule against the entry of judgments against a party who dies before a verdict is rendered against them, and the Italian court's decision to uphold the verdict contradicted the state's ideas of fairness and justice and violated the due process of law (*In re Davis*, 219 N.Y.S.2d 533 (Sur. Ct. Westchester Co. 1961), *aff'd* on other grounds, 227 N.Y.S.2d 894 (2d Dep't 1962)).
- A US court declined to enforce an English libel judgment because to do so would be in violation of the US Constitution's First Amendment's protection of free speech and the press. Unlike US laws, English laws specifically did not require plaintiffs to prove that a press defendant was at fault to any degree and that the statements of public concern at issue were false. (*Bachchan v India Abroad Pubs. Inc.*, 585 N.Y.S.2d 661 (Sup. Ct. N.Y. Co. 1992).)

US courts may also refuse to recognize a judgment on public policy grounds if it violates the rights of US citizens or is in some way prejudicial to the country's interests (9A *Carmody-Wait* 2d § 63:679).

## Interim Remedies for Enforcing Foreign Judgments

As with domestic proceedings (see [Interim Remedies](#)), a US court may allow a foreign country judgment creditor to attach a debtor's assets that are located within the court's jurisdiction (see *CIBC Mellon Tr.*, 762 N.Y.S.2d at 11; *Sav. Deposit Ins. Fund of Turkey (Tasarruf Medvuati Sigorta Fonu) v. Aksoy*, 111 N.Y.S.3d 820, 821-22 (N.Y. Sup. Ct. N.Y. Co. 2019), *aff'd*, 134 N.Y.S.3d 722 (1st Dep't 2020)). Under N.Y. CPLR 6201(5), a court can order pre-judgment attachment in connection with a judgment that qualifies for recognition under N.Y. CPLR Article 53 (CPLR 5300-5308) regarding foreign country judgments.

## Costs and Interest for Enforcing Foreign Judgments

Post-judgment interest is generally governed by the enforcing jurisdiction's law (*Abu Dhabi Com. Bank PJSC v. Saad Trading, Contracting & Fin. Servs. Co.*, 986 N.Y.S.2d 454, 459 (1st Dep't 2014)). However, post-judgment interest is not recoverable where courts in the foreign jurisdiction have already held that the creditor is not entitled to interest (*Servipronto De El Salvador, S.A. v. McDonald's Corp.*, 837 F. App'x 817 (2d Cir. 2020)).

The ability to recover costs of enforcement and attorneys' fees varies by jurisdiction. Generally, there is no right to recover attorneys' fees absent a statute authorizing recovery.

## Currency

Neither the [Recognition Act 1962](#) nor the [Recognition Act 2005](#) requires currency conversion. However, in practice, US courts do convert judgments into the local currency, although there is some disparity as to how this is done. Some US courts use the exchange rate on the day the foreign judgment was issued, while others apply the rate on the date the US judgment was published or use the date the judgment was actually paid. Others use the exchange rate on the day that the wrong occurred, and others use the day that the court entered judgment for the plaintiffs (*Cont'l Transfert Technique Ltd. v. Fed. Gov't of Nigeria*, 932 F. Supp. 2d 153, 158-59 (D.D.C. 2013), *aff'd*, 603 F. App'x 1 (D.C. Cir. 2015)). Still other courts use equity to select the appropriate date to avoid granting either party a windfall (*G. Geerlings Exp. B.V. v. Van Hoekelen Greenhouses, Inc.*, No. 3:15-CV-1292, 2017 WL 2692001, at \*4-5 (M.D. Pa. June 21, 2017)).

## Methods of Enforcement (Domestic and Foreign)

State law enforcement remedies apply in both state and federal proceedings. Under [FRCP 69\(a\)\(1\)](#), a federal court applies the enforcement remedies available under the law of the state where the federal court sits, including injunctions, notices of pendency, orders of attachment, and receivership (see, for example, [Practice Note, Provisional Remedies in New York: Overview](#)). To the extent a federal statute applies, it governs the particular matter.

A judgment creditor can enforce a judgment against assets in the hands of the judgment debtor and can also seek property belonging to the judgment debtor but in the hands of a third party through a special proceeding known as a "turnover action," for example under N.Y. [CPLR 5225\(b\)](#). New York courts have interpreted that statute to have extraterritorial reach, so that with a New York judgment, a plaintiff can seek turnover of assets in another state or country if the court has personal jurisdiction over the debtor or third person in possession of the property (*Koehler v. Bank of Bermuda Ltd.*, 883 N.Y.S.2d 763, 767-68 (2009)). A claimant can also seek broad post-judgment discovery to learn the location of the judgment debtor's property subject to attachment (N.Y. [CPLR 5223](#)).

## Proposals for Reform

There are no current proposals for the US to enter any treaties on enforcement of foreign judgments.